JUSTICE OF THE PEACE & LOCAL GOVERNMENT REVIEW

Saturday, May 7, 1955 **Vol. CXIX. No. 19**

Official & Classified Advertisements, etc.

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LANCASHIRE (No. 7) COMBINED PROBATION AREA COMMITTEE

Appointment of Whole-time Female Probation Officer

APPLICATIONS are invited for the above appointment. Applicants must be not less than 23 nor more than 40 years of age, except in the case of whole-time serving Officers.

Salary and appointment in accordance with Probation Rules 1949-1955. Successful applicant will be stationed at Ashton-under-Lyne.

Applications with full details of experience and copies of two recent testimonials to reach me not later than May 11, 1955.

ALBERT PLATT,
Clerk to Committee.

" Boston House,"
99, Warrington Street,
Ashton-under-Lyne, Lancs.

LANCASHIRE No. 13 PROBATION AREA comprising Southport County Borough Ormskirk Petty Sessional Division Southport Petty Sessional Division

APPLICATIONS are invited for the appointment of a whole-time male probation officer.

Applicants must be not less than 23 nor more than 40 years of age unless at present serving as a whole-time probation officer.

Salary and appointment will be in accordance with the Probation Rules.

Applications, giving full details of qualifications and experience, and the names of three referees, should reach me not later than May 16, 1955.

B. J. HARTWELL,
Honorary Secretary of the Committee.

The Law Courts,
Southport, Lancs.

NATIONAL ASSOCIATION OF JUSTICES' CLERKS' ASSISTANTS

THE Seventeenth Annual General Meeting of members will take place on May 14, 1955, at 2 p.m., at the Grosvenor Hotel, S.W.1.

ALEXANDER BRIMELOW,
Honorary Secretary.

The Court House,
Epping, Essex.

URBAN DISTRICT COUNCIL OF RUISLIP-NORTHWOOD

APPLICATIONS are invited for the appointment of Assistant Solicitor. Salary within the scale £690—£900 per annum, plus London " weighting " allowance, commencing salary to be fixed according to experience. Superannuable post, subject to medical examination. N.J.C. Service Conditions apply. The provision of housing for the successful candidate may be considered, if required. Applications will be considered from candidates who sat the March Final Examination.

Applications, with the names of three referees, and endorsed " Appointment of Assistant Solicitor," should be sent to the undersigned not later than May 13, 1955. Canvassing will disqualify.

EDWARD S. SAYWELL,
Clerk of the Council.

Council Offices,
Northwood, Middlesex.
April 27, 1955.

BOROUGH OF ACCRINGTON

ASSISTANT SOLICITOR required, at a salary within a scale rising from £690 to £900 per annum (but not less than £780 after two years' legal experience from date of admission).

Applications, stating date of admission, qualifications and experience, etc., together with the names and addresses of two persons to whom reference may be made, by May 16, 1955.

JACK GARTSIDE,
Town Clerk.

Town Hall,
Accrington.
April 28, 1955.

METROPOLITAN BOROUGH OF CAMBERWELL

Appointment of Assistant Solicitor

SALARY SCALE £720 by annual increments of £30 to £930 inclusive of £30 London weighting. Commencing salary according to experience. Application form from Town Clerk, Town Hall, Camberwell, S.E.5. Closing date Tuesday, May 31, 1955.

CITY OF BIRMINGHAM

Appointment of Full-time Female Probation Officer

APPLICATIONS are invited for the appointment of a full-time female Probation Officer for the City of Birmingham.

The appointment and salary will be in accordance with the Probation Rules, 1949 to 1954. Candidates must not be less than 23 years nor more than 40 years of age, except in the case of a serving officer.

The post is superannuable and the selected candidate will be required to pass a medical examination.

Applications (in own handwriting), giving age, present position, general qualifications and experience, should be sent with copies of three recent testimonials to the undersigned not later than seven days after the publication of this notice.

T. M. ELIAS,
Secretary to the Probation Committee.

Victoria Law Courts,
Birmingham, 4

GLOUCESTERSHIRE MAGISTRATES' COURTS COMMITTEE

APPLICATIONS are invited from persons qualified in accordance with s. 20 of the Justices of the Peace Act, 1949, for the part-time appointment of Clerk to the Justices for the Coleford, Lydney and Newnham Petty Sessional Divisions.

Salary £750 × £50—£950, plus £65 for acting for more than one Division.

Allowances paid for office accommodation and expenses, part-time clerical assistance, and travelling.

The Clerk will be required to take up the appointment on October 1, 1955.

The appointment is superannuable and subject to medical examination and to three months' notice on either side.

Applications, stating age, qualifications and experience, together with the names and addresses of three referees, should be sent to reach me not later than May 31, 1955.

GUY H. DAVIS,
Clerk of the Committee.

Shire Hall,
Gloucester.

READING BOROUGH MAGISTRATES COURTS COMMITTEE

Second Assistant

APPLICATIONS are invited for this appointment from persons with experience of the work of a Justices' Clerk's Office and who are competent in shorthand and typing and with some knowledge of fines and fees accounting. Salary scale £500—£580, subject to adjustment in the event of a National Award in respect of Justices' Clerks' Assistants. The post is superannuable, and the successful applicant will be required to undergo a medical examination.

Applications to be sent to the undersigned, together with the names of two referees, not later than May 16, 1955.

W. K. ANGUS,
Clerk to the Magistrates' Courts Committee.

Sessions House,
Valpy Street,
Reading.

Justice of the Peace
and
LOCAL GOVERNMENT REVIEW

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NOTES OF THE WEEK

Writing to the Magistrate

The chairman of an East Anglian magistrates' court recently explained why a colleague had left the bench during the hearing of a case in which a young man was charged with larceny, by saying that the defendant's mother had written a letter to the magistrate concerned. This kind of thing, said the chairman, must cease.

What the letter contained is a matter of conjecture, but it is very probable that it was a plea for leniency and a testimonial of good character such as a parent often makes in person in court. There is no need to assume that there was any conscious impropriety on the part of the writer. At the same time, it is wrong for anyone to approach a magistrate, either in person or in writing, about a matter with which he may be dealing in court, and of course a magistrate would refuse to discuss it. If he has received and read a letter bearing on it he does right in informing the chairman and withdrawing from the court. If he did otherwise, the person who approached him, and anyone else who might be aware of the approach, might think the magistrate had been influenced by this and would thus gain a false and unfortunate impression of the way in which justice is administered in the magistrates' courts.

Police Cadets

In view of the shortage of police in many forces, it is obvious that every possible means should be adopted of handing over to others any duties being performed by police officers that could be adequately undertaken by those others. A practical suggestion has been made by Sir Henry Studdy, chief constable of the West Riding, to the standing joint committee. This is that use should be made of police cadets for the performance of certain duties at police stations in the daytime, so as to release constables for duty outside, where they are needed.

The West Riding force is seriously under strength, and the chief constable proposes an increase in the number of cadets, in view of the fact that those who have already joined have proved satisfactory. The shortage of constables has caused a dangerous undermanning of beats. The introduction of cadets is a means of interesting lads of 16 or thereabouts in the police service, before they are called up, and they may become a pool of future constables. This seems a sound idea.

The Meaning of Adultery

For the purposes of relief in the Divorce Division, adultery may be defined as consensual sexual intercourse between a married person and a person of the opposite sex during the subsistence of the marriage, *Rayden on Divorce*, 6th edn., p. 111. The same definition must be applied in the magistrates' courts as in the Divorce Court.

The effect of what may be called attempted adultery was considered by the Court of Appeal in *Dennis* v. *Dennis* [1955] 2 All E.R. 51, in which it was decided that where there was an attempt but no penetration this, did not constitute adultery and was therefore not of itself sufficient ground for divorce. Singleton, L.J., held that there was no distinction to be drawn between the words "sexual intercourse" in the definition of adultery in *Rayden*, and "carnal knowledge" in the criminal law.

Parish Constables

The chief constable of Buckinghamshire is reported to have told the standing joint committee that in his opinion parish constables should be abolished, adding that very few counties now appointed them, and that the parish constables did absolutely nothing. Action was deferred for the clerk to confer with the chief constable. The clerk said he thought it was necessary to look into the matter carefully "before tampering with this ancient, if not very useful, institution."

In his book *British Police and the Democratic Ideal*, Mr. Charles Reith says that the justice-and-parish constable system of making the people responsible for the organization of law-observance functioned well for long periods in rural areas. The able-bodied males of each parish were appointed singly, in turn, to serve in office as parish constable for 12 months. When this country began to change from an agricultural to a largely industrial country the parish constable

system broke down and in the nineteenth century it was replaced by modern police forces but, as appears from the report from Buckinghamshire, there are still some parish constables in existence.

The office was originally unpaid and obligatory, but by 1872 (*see* 25 *Halsbury* 290) the establishment of an efficient police force in the counties of England and Wales had rendered the general appointment of parish constables unnecessary, and unpaid parish constables are not now appointed in any parish, unless the justices at quarter sessions by resolution determine that it is necessary for the preservation of the peace or the proper discharge of public business to appoint one or more parish constables for any parish within their jurisdiction. There appears still to be power to appoint paid parish constables, and all parish constables are under the authority of the chief constable.

A practical way of looking at the question of appointment is suggested by the chief constable of Buckinghamshire, Brigadier J. N. Cheney, who said "I wonder what the outcome would be if I paraded them in their parishes and put them on a week's night duty."

Teaching them to Read

A promising experiment in teaching young people to read books instead of comics or nothing at all, is described in the report of the probation committee for the city of Plymouth for 1954. It has been found that many probationers employ very little of their leisure time in reading. Most of the youngsters, says the report, read comics if anything, and while the much-publicized horror comics do not yet circulate in Plymouth in any number, few, if any, comics can be rated better than "harmless" and all of them encourage that laziness which leads to adult illiteracy by offering pictures as a substitute for the written word.

It was resolved to start a library at the probation office, and valuable help and encouragement came from the city librarian, Mr. Best Harris. The library now contains 200 books. Probationers needed little persuasion to make use of the library, although very few had taken advantage of the local public library. Not unnaturally, those who already used the public library were not keen on the new one, while some of those who joined the new one have since gone over to the public library, where doubtless there is a wider range of books.

The range of books in the probation office library includes school stories, adventure, geographical and informative books on many topical subjects. Adventure books are the most popular; while books of the "How to make it" type are noticeably neglected. One surprising result has been that a few young men, much retarded, have taken an interest in the 10 year-old adventure stories.

We do not suggest that this is the first library to be established for probationers but we think the information contained in this report is unusually interesting. It shows one of the many ways in which, quite apart from formal supervision, probation officers can help probationers to improve their standards and put some of their leisure time to pleasant and useful purpose.

Correcting an Error

If a magistrates' court inadvertently imposes a fine in excess of the statutory maximum, or orders the disqualification of a motorist for a period longer than that authorized, or makes some similar error, and applications made for an order of *certiorari*, the High Court quashes the sentence or order, and apparently has no power to amend it. This was mentioned by the Lord Chief Justice in a case reported in *The Times*, April 22, when the Court quashed an order for the disqualification of a motorist for 18 months on conviction of careless driving, the maximum period being three months.

Lord Goddard observed that amending legislation seemed desirable so as to empower the Court to amend the order instead of quashing it. We hope due notice will be taken of this, as it does not seem satisfactory that in a matter of this sort, a slip on the part of magistrates should necessitate the cancellation of a sentence or order instead of a simple amendment which does no injustice to anyone.

New Traffic in old Bottlenecks

At 118 J.P.N. 648, we suggested that the internal planning of towns would ordinarily be better done by the town council or the district council than by the county council, although it would be necessary for the county council to retain some power of intervention where the local authority's plan would interfere with larger projects in the county. We suggested that the unhappy controversies at Cambridge, as the result of which, possibly, nobody is satisfied, might have been shorter, and could have been settled more easily, if the town council of Cambridge had been able to make its own plan, instead of having one forced upon the borough by the county council. At the same time we admitted that the experience of Oxford, which is a county borough, had not provided a happy precedent for treating the planning of new roads as a matter for the local authority upon the spot. At Oxford, talk has gone on for years at various levels, and nothing has become visible except some one way traffic streets. The major causes of damage to the architectural heritage of the university and city; to the work of the university as a living organism; to the business of the city, and to the amenities of social life, have remained and grown worse year by year. The *Manchester Guardian*, in the absence during April of London daily papers, recorded at some length an intervention by the Minister of Housing and Local Government, which the writer of the *Guardian's* article seemed to think might bring nearer the end of the delays and uncertainties that have bedevilled Oxford's traffic for so many years. The Minister is, apparently, pressing the council of the city to construct an inner by-pass road, taking traffic from the eastern part of Oxford (on the left bank of the river Cherwell) to Oxford Station and beyond, without passing through the middle of the city. The *Guardian* suggests that such a road can only be made by crossing Christ Church meadows. There is obvious and natural objection on the part of Christ Church, and the other colleges abutting on the meadows (and indeed in other quarters, including rowing men throughout the world), against carrying a motor road along such a route. For our part, speaking without expert knowledge, we should have thought it feasible to cross the Cherwell by a new bridge, high enough above the water to avoid interfering with navigation (the headroom under the existing Magdalen Bridge is not enough for punting, which shows that no great clearance is required) and then to dip by a fairly steep incline, beginning in that part of the meadows which is least used and is least seen by visitors. The incline could even be taken by a spiral course. The road could then run in an open cutting, until the point is reached where it would have to cross the Thames. This expedient would not get rid of the noise and fumes, but these would not be such a serious injury to amenity as the sight of cars tearing along a road across the meadows. The cutting would be crossed at such points as were necessary, by the present footways leading from Christ Church and St. Aldate's to the riverside and the college barges. The ideal plan would be, no doubt, to leave the meadows as they are, but in these days ideals must to some extent be sacrificed on the altar of the

gods (if gods they be) who invented the internal combustion engine. The *Guardian* suggests that a similar inner by-pass road would have to cut through the university parks on the northern side of the city, but that is a comparatively minor evil. We notice that the *Guardian* expresses the hope that, if one or both of these inner rings or by-passes were constructed, motorists could be "encouraged" to use them in preference to crossing Magdalen Bridge and going through the middle of the city. It is also hoped that the formation of a shopping centre to the eastward of the Cherwell would persuade the large population of the eastern half of Oxford, predominantly an industrial population, to do their shopping there, instead of resorting to the old established shopping areas.

This last, we suppose, is common sense, but it would be hard on these people to condemn them to live their lives in a sort of new "east end." Between different parts of the city there must surely be maintained reasonable facility for intercourse; this means there may have to be a continuance of omnibuses. Local omnibuses could, however, if the new inner by-passes or ring roads were once constructed, be kept away from the High Street, since Carfax and the Cornmarket (the geographical and business centre of the city) could be reached on foot in a few minutes from bus stops in St. Ebbe's and St. Giles's, on the southern and northern by-pass routes respectively. Omnibus traffic can be controlled and routed under the Road Traffic Acts. Far more serious is the problem of the heavy lorries, and that of the private car. Mere "encouragement" would be no use. Our readers know that we are not the friends of restriction for restriction's sake, and indeed that in many contexts we think the remedy of interference by public bodies is apt to be worse than the disease it seeks to cure. We realize, also, that nearly every restriction upon liberty is justified by its advocates upon the specious ground that their case is exceptional. For all that, we are prepared to take the risk, of being charged with inconsistency, by urging that the need is instant, of new powers for compulsorily diverting or restricting motor traffic in such towns as Oxford, Chester, Shrewsbury, and others of comparable type. The "type" is that of the Roman or mediaeval site, chosen for its commercial or defensive value, upon which a modern community still lives and flourishes. It is likely to possess historic treasures which are part of the national inheritance —indeed, of the cultural inheritance of Europe; on a mundane level, this makes it a target for motor vehicles bringing visitors from all parts of this country and from overseas, and the original causes which led our forbears to establish a town upon the site still make it, often, a business centre, quite apart from tourist traffic. We do not claim to be experts in handling traffic or in conserving ancient monuments and the groves of Academus, but we do know that similar towns in continental countries are commonly protected by enactments, obliging motor traffic to halt outside the walls, and to go round the town instead of through it. This presupposes the construction of sufficient by-pass roads and adequate facilities for parking at the edge of towns; these are a matter of money and organizing ability, in the latter of which English public authorities are surely not deficient, when they can forget the particular interests of shop-keepers, garage proprietors, and others with a pecuniary interest (often short-sighted) in maintaining the influx of motors. It requires, also, that legislators and administrators, national and local, shall appreciate other claims than that of the machine, and pluck up courage to dethrone the motorist from his present privilege of blowing exhaust fumes where he listeth.

INTENTION IN CASES OF CONSTRUCTIVE DESERTION

[CONTRIBUTED]

In an article entitled "Two Schools of Thought" (116 J.P.N. 518) consideration was given to the difficulty of reconciling two conflicting series of decisions on the subject of intention in constructive desertion. Since then further cases dealing with the subject have been decided, the most recent being the case of *Lang* v. *Lang*; an appeal to the Privy Council from the High Court of Australia [1954] 3 All E.R. 571.

Although decisions of the Privy Council are not binding on English courts, where, as in this case, the board is composed of five members of the House of Lords who set out specifically to decide a point at issue in English law, considerable respect will be paid to its findings; and magistrates, certainly, would be ill-advised to disregard them.

The principles involved are fully set out in the article referred to, and it will suffice here if a brief summary of the position is given. (For the sake of simplicity the husband is referred to as the offending spouse, but, of course, the arguments apply equally well if the wife's conduct is in question.) A number of cases were quoted, but, as Lord Porter intimates in *Lang* v. *Lang*, there are four cases which completely review the divergence in the decisions. In *Hosegood* v. *Hosegood* (1950) W.N. 218, and *Pike* v. *Pike* [1953] 1 All E.R. 232, it is held, generally, that whereas in many cases a husband may from his conduct be presumed to intend to bring the married life to an end, yet it should always be borne in mind that if the facts negative that presumption then it should not be attributed to him. The effect of these decisions, and of those allied to them, is to say that however reprehensible the husband's behaviour; however justified the wife is in leaving him, having regard to his conduct; nevertheless, if he can satisfy the court that, despite his behaviour, he had no intention to end the marriage, then the court will not adjudge him to be a deserter.

That is one school of thought; the other can be represented by *Edwards* v. *Edwards* [1948] 1 All E.R. 157; 112 J.P. 109, and *Simpson* v. *Simpson* [1951] 1 All E.R. 955; 115 J.P. 286. Here it is held, generally, that a man must be presumed to intend the natural consequences of his acts. If he persists, then, in a course of conduct the probable result of which is that his wife will leave him, he is guilty of constructive desertion although he may genuinely desire the marriage to survive.

Following the first-quoted school, a man's evidence as to his desire to continue the marriage is most relevant; following the other school such evidence is irrelevant and inadmissible on the question of intent.

In matrimonial disputes the facts in any particular case are closely bound up with the legal issue, and it is well known that a great number of cases are decided, to a greater or lesser extent, on the particular facts of the case. The facts in *Lang* v. *Lang* are unusual in that the wife would have had a clear case of cruelty in an English court, but the law of the State of Victoria so differs from English law that she was compelled to base her petition for divorce on the ground of constructive desertion. It was not disputed that the husband had grossly ill-used and insulted her over a period of five years and had

given her ample justification for leaving him. His case was that, despite this conduct, he did not desire his wife to leave, and had never wanted her to go, and had begged her to return when she did leave. In these circumstances, he said, he could not be found to be in desertion.

Delivering the judgment, Lord Porter says that the only question is: has the necessary intention to desert been shown?—and refers to three possible methods of ascertaining that intent. First: is it enough for the wife to show a course of conduct by the husband which in the eyes of a reasonable man would, by making her life insufferable, be calculated to drive her out, his actual intention being immaterial on the footing that every man is presumed to intend the natural and probable consequence of his acts? Secondly: is the real question, did this particular husband (who may not have been reasonable) know that his conduct, if persisted in, would, in all human probability, result in the wife's departure?—it being remembered that it is possible for such knowledge to co-exist with a desire that she should stay, since people often desire a thing but act deliberately in a way which makes that desire unrealizable. Thirdly: should inferences which would naturally be drawn be wholly disregarded and an intention which would naturally be drawn from the husband's conduct negatived provided there is proved to exist, *de facto*, on his part, a genuine desire (however illogical or impossible it may be to square such a desire with his conduct) that the matrimonial union should continue?—on which view the husband's desire to maintain the home is conclusive whatever his conduct.

The divergence in the decisions is then reviewed by his Lordship, and he said that the difference between the two views is rather what meaning is to be attached to the word "intention" and what evidence is sufficient to rebut a *prima facie* case. He draws a distinction between a desire and an intent; an intent involving an element of volition, but not a desire. (A man may desire to eat a certain article of food, but he may intend not to eat it in the interests of his health. His intent will be shown by his renunciation of that article of food.) Thus, where a man's actions are such that the highly probable result of them will be that his wife will leave him, an intention to drive her out is presumed. He may, however, genuinely desire that she shall stay with him, but is this desire sufficient to rebut the intention inferred from his acts? The Privy Council held that it is not.

Nevertheless, the board indicated that it would be too objective a requirement to rely solely on an intention to persist in a course of conduct which any reasonable person would regard as calculated to bring the matrimonial relationship to an end. They intimated that a more subjective standard ought to be adopted, and that it should be shown that the husband must have known that what he was doing would necessitate the wife's withdrawal if she acted as any reasonable person would.

It appears, therefore, that this decision applies the standard in *Edwards* v. *Edwards*, *supra*, and the other cases which set out the view that a man must be presumed to intend the natural consequences of his acts in preference to the standard in *Hosegood* v. *Hosegood*, *supra*, and the other cases which set out the view that if a man can prove that he did not intend his wife to leave he is not guilty of desertion. But, if this is so, then the board have imposed a qualification to their acceptance of one view and their rejection of the other. It is probably more true to say that the conflicting series of decisions have been taken at the point at which they come closest together and merged.

To found a decision by the application of the test in which an intention to persist in a course of conduct which any reasonable person would regard as calculated to bring the matrimonial relationship to an end, is, as has been indicated, regarded as too objective a requirement. But, on the other hand, the husband cannot rebut the natural inference to be drawn from his acts (that his wife would in all probability leave him) simply by saying that he did not want her to go.

A summary of the position would appear to be this: the principle that a man is presumed to intend the natural consequences of his acts may be applied in cases of constructive desertion, provided that there must be added to it a requirement that the particular individual must have known that what he was doing would necessitate his wife's withdrawal if she acted as a reasonable person. This requirement may, of course, be inferred from his conduct. The principle, if applied, does not raise an irrebuttable presumption, but the presumption cannot be displaced by evidence that the particular husband did not intend (or to use the more precise terminology of Lord Porter, did not desire) his wife to leave.

C.T.L.

A GUIDE AND CALENDAR FOR THE GENERAL ELECTION, MAY, 1955

A VADE MECUM FOR ELECTION AGENTS AND RETURNING OFFICERS

By R. N. HUTCHINS, LL.B. (Lond.), D.P.A., (Lond.), *Solicitor*

Serial	*Principal person to take action*	*Proceeding*	*Definition of Date and/or Time*	*Date and Time. For explanation of symbols "D", "+", etc., see Notes (a)—(b) below*	*Statutory Provisions. Representation of the People Act, 1949, and Regulations, 1950 and Home Office Circulars and Forms. For explanation of P.E.R. see Note (a) below*	*Remarks*
1	2	3	4	5	6	7
A	E.R.O. R.O.	**Qualifying Date for the Election**		October 10, 1954	Electoral Registers Act, 1953	Register of 15 February, 1955, will be used.
B	R.O.	Receipt by Clerk of the Crown from R.O. of Notice requesting conveyance of Writ to A.R.O.	One month or more before the issue of the Writ.	Before April 5	Sch. 2, Part II, para. 4.	For Form, see S.R. & O., 1944 No. 334, continued in force by R.P. Act, 1949, s. 175 (2).

Serial	*Principal person to take action*	*Proceeding*	*Definition of Date and/or Time*	*Date and Time. For explanation of symbols "D", "+", etc., see Notes (a)—(b) below*	*Statutory Provisions. Representation of the People Act, 1949, and Regulations, 1950 and Home Office Circulars and Forms. For explanation of P.E.R. see Note (a) below*	*Remarks*
1	2	3	4	5	6	7
C	**R.O.**	**Issue of Writ.**	As soon as practicable after the issue of the proclamation summoning the new Parliament.	May 6 **D DAY** **DAY WRIT ISSUED**	P.E.R. 1. H.O. Circ., R.P.A. 58, para. 3.	See 1949 Act, Sch. 2, Pt. II, para. 5, as to telegraphic intimation. For Form of Writ, see Sch. 2 Appendix.
D	**CANDIDATE** **L.E.A.** **R.O.**	Candidate becomes **entitled to use certain Schools and Halls for public meetings.**	Between the receipt of the Writ and the date of the Poll.	May 7	s. 82 and Sch. 7.	For limitations, see s. 82 and Sch. 7. Candidate pays out-of-pocket expenses only. List of Rooms to be available to Candidates or Agents. Sch. 7, para. 5.
E	**R.O.** **A.R.O.**	Last day for R.O. to give notice to A.R.O. of duties which he reserves to himself and undertakes to perform in person.	Not later than the day following that on which the Writ is received.	May 7 or 9	s. 18 (1) and (2). H.O. Circ., R.P.A. 58, para. 2.	
F	**R.O.**	R.O. arranges for use of polling places, fitting up of polling stations, attendance of Police and the conveyance of ballot boxes.	No time specified but action taken in anticipation of a contested election.		P.E.R. 26. H.O. Circ., R.P.A. 58, paras. 14, 15, 31.	As to use of Schools and Public Rooms, see P.E.R. 22.
G	**R.O.**	**Publication of NOTICE OF ELECTION**	Not later than 4 *p.m.* on the second day after that on which the Writ is received.	May 9 or 10 4 *p.m.*	P.E.R. 1 and 6. H.O. Circ., R.P.A. 58, para. 17.	For **Form**, see Sch. 2 Appendix. (Not supplied by H.M.S.O.)
H	**Elector and E.R.O.**	Last day for receipt by E.R.O. of **application to be treated as an absent voter for an indefinite period** under s. 13 (3).	The twelfth day before the day of the Poll.	May 12	ss. 12 (1), 13 (3), **Reg.** 25 (2) as amended by 1953 Reg. 1 (1). Forms R.P.F. 7, 7A, 8 and 10A.	NOTES APPLICABLE TO SERIALS H, J, K AND L. (*a*) Applications under Serial H include those on grounds of physical incapacity, nature of employment, change of address, and (for insular constituencies only) a journey by sea or air. (*b*) E.R.O. now has no discretion to allow late applications, except for Police Constables or staff of R.O. (*c*) If application received after the day specified and disregarded for the purposes of the election, it may remain effective for later elections. (*d*) Serial J (Form R.P.F. 10A) in general confined to cases where Elector at sea or outside U.K. (*e*) Serial L (Form R.P.F. 9) available for limited classes only, *e.g.*, H.M. Reserve or Auxiliary Forces, certain Returning Officers and their staff, Police Constables, Candidate or spouse of Candidate in another Constituency.
J	**Elector other than Service Voter and E.R.O.**	Last day for receipt of application for issue of a Proxy Paper.	The twelfth day before the day of the Poll.	May 12	ss. 12 (3), 14 (4), **Reg.** 30 (3) as amended by 1953 **Reg.** 3 (1). Form R.P.F. 10A.	
K	**Elector and E.R.O.**	Last day for receipt of application by Service voter's proxy to vote by post.	The twelfth day before the day of the Poll.	May 12	s. 15, **Reg.** 32 (2) as amended by 1953 **Reg.** 4 (1), 25 (2) as amended by 1953 **Reg.** 1 (1). Form R.P.F. 11.	
L	**Elector and E.R.O.**	Last day for receipt of **application to be treated as an absent voter for a particular election** under s. 13 (2).	The twelfth day before the day of the Poll.	May 12	ss. 12 (1) (*b*) (ii) to (vi), 13 (2). **Reg.** 25 (2) as amended by 1953 **Reg.** 1 (1). Form R.P.F. 9.	
M	**E.R.O.**	E.R.O. completes preparation of (*a*) Absent Voters List. (*b*) List of Proxies. (*c*) List of Postal Proxies.	"As soon as practicable," *i.e.*, after last day for receipt of applications under Serials H to L.	On or after May 13	P.E.R. 28. **Reg.** 26 as amended by 1953 **Reg.** 2 and 33 as amended by 1953 **Reg.** 5. H.O. Circ., R.P.A. 37, para. 58. and R.P.A. 53.	E.R.O. shall on request and without fee supply to each Candidate or his Election Agent a copy of the Absent Voters List and the Postal Proxies List.
N	**R.O.**	**Issue by R.O. to Electors and Proxies of Official Poll Cards.**	"As soon as practicable," *i.e.*, after Absent Voters List is closed and location of polling stations finally confirmed. Not before Serial W.	On or after May 16	**Reg.** 64 (Forms) P.E.R. 29. H.O. Circ., R.P.A. 10, 12, 58 (para. 12), 30, 31 and 38.	**Forms E (Electors) and F (Proxy) Reg. 1950 Appendix.**
O	**CANDIDATE** **R.O.**	**Delivery of Candidate's NOMINATION PAPER by Candidate, his Proposer or Seconder —last day, and latest time.**	**Between 10** *a.m.* **and 3** *p.m.* **on any day after Serial G but not later than the 8th day after the date of the proclamation summoning the new Parliament.**	May 16 10 *a.m.*—3 *p.m.*	P.E.R. 1, 7, 8, 11 and 12. H.O. Circ., R.P.A. 58, para. 1 (*b*), 18 and R.P.A. 40.	**Form** of Nomination Paper **(PE.1)** (Form amended by Electoral Registers Act, 1953, sch., para. 4).
P	**CANDIDATE** **R.O.**	**Deposit of £150 by or on behalf of Candidate with the R.O.—last day and latest time.**	At the place and during the time for delivery of Nomination Papers.	May 16 10 *a.m.*—3 *p.m.*	P.E.R. 10.	See P.E.R. 10 (2) for mode of making the deposit.
Q	**CANDIDATE** **R.O.**	**Delivery of Candidate's CONSENT TO NOMINATION—last day and latest time.**	On or within one month before the day fixed as the last day for the delivery of Nomination Papers.	May 16 10 *a.m.*—3 *p.m.*	P.E.R. 9.	**Form PE. 1A.** Telegram may suffice if Candidate outside U.K.
R	**CANDIDATE** **R.O.**	Delivery of **NOTICES OF WITHDRAWALS of Candidatures—last day and latest time.**	Within the time for the delivery of Nomination Papers.	May 16 10 *a.m.*—3 *p.m.*	P.E.R. 1 and 14.	Special provisions in P.E.R. 14 (2) if Candidate outside U.K.
S	**CANDIDATE** **R.O.**	**Declaration** in writing by or on behalf of Candidate to R.O. of **name, address and office of ELECTION AGENT** — latest time.	Not later than latest time for delivery of notices of withdrawals.	May 16 10 *a.m.*—3 *p.m.*	ss. 55, 57 (1). H.O. Circ., R.P.A. 58, para. 20.	See s. 58 for effect of default in appointment of Election Agent *i.e.*, **Candidate shall be deemed to have named himself.**
T	**R.O.**	R.O. gives **Public Notice of name, address and office of ELECTION AGENTS of Candidates.**	Forthwith upon the Declaration under **Serial S** above.	After Serial S.	ss. 55 (5) and 57 (1).	As to "public notice" see s. 171 (3) it may include advertisements, placards, handbills, etc. **Form PE.25.**

Serial	*Principal person to take action*	*Proceeding*	*Definition of Date and/or Time*	*Date and Time. For explanation of symbols "D", "+", etc., see Notes (a)—(b) below*	*Statutory Provisions. Representation of the People Act, 1949, and Regulations, 1950 and Home Office Circulars and Forms. For explanation of P.E.R. see Note (a) below*	*Remarks*
1	2	3	4	5	6	7
U	**CANDIDATE Proposer Seconder ELECTION AGENT**	**The making of OBJECTIONS to NOMINATION PAPERS—latest time.**	During hours allowed for delivery of Nomination Papers and the hour following on the last day for delivery thereof (see also remarks).	May 16 10 *a.m.*—4 *p.m.*	**P.E.R. 1 and 12. H.O. Circ., R.P.A. 58, para. 1 (c).**	**See P.E.R. 1, for special rules restricting the scope of objections delivered during the 24 hours next before the last time.**
V	**R.O. CANDIDATE**	**R.O. gives NOTICE to each CANDIDATE of TIME and PLACE of ISSUE of POSTAL BALLOT PAPERS—last day.**	Not less than two days' notice must be given of the first issue.	Two days before Serial AD.	**Reg. 40 (1) and 38 (2).**	Notice also states number of agents each Candidate may appoint to attend. **Form PE.27.** R.O. is required to give as much notice as practicable of any subsequent issue. **Reg. 40 (2).**
W	**R.O.**	**Publication of Statement of persons nominated and NOTICE of Day and hours of Poll.**	At the close of the time for making objections to Nomination Papers or as soon thereafter as any objections are disposed of.	After May 16 4 *p.m.*	**P.E.R. 1, 15 and 23 (1). H.O. Circ., R.P.A. 58, para. 19.**	See also note to Serial AC. See s. 171 (3) for methods of publication. **Form PE.2.** For UNCONTESTED ELECTIONS, see P.E.R. 17 (2) and 51 (2). **(Form PE. 2a.)**
X	*R.O. (County Constituencies only).*	*R.O. delivers to Postmaster of Principal Post Office for place of Nomination, paper giving Candidate's names, and day and hours of Poll.*	*On publication of Statement of persons nominated and notice of Poll.*	*As for Serial W.*	*P.E.R. 23 (3). H.O. Circ. R.P.A. 58, para. 19.*	*Under P.E.R. 23 (4) Postmaster shall forward information by telegraph to all postal telegraph offices in the county constituency where it shall be published.* **Form PE.4.**
Y	**R.O. and others**	**R.O. appoints Presiding Officers, Poll Clerks and Counting Assistants.**	No time specified but after it is known contest will take place.	After May 16	**P.E.R. 27. H.O. Circ., R.P.A. 58, para. 11.**	**Forms PE.8, 9 and 10.** For some special notes for Presiding Officers and Poll Clerks, see H.O. Circ., R.P.A. 58 para. 23.
Z	**R.O. CANDIDATE**	**R.O. notifies Candidate of number of Counting Agents whom he may appoint to attend the Count.**	No time specified. After R.O. has decided the number of Counting Assistants he will employ.	After Serial Y.	**P.E.R. 31.**	R.O. may limit number of Counting Agents so long as total allowed is not less than total of Counting Assistants employed by R.O. The limit must be the same for each Candidate.
AA	**CANDIDATE**	**Candidate's right to send election address post free may be exercised without giving security to P.M.G.**	After publication of Statement of persons nominated.	After Serial W.	**s. 79.**	If election address sent before this time, P.M.G. may demand security for payment of postage.
AB	**CANDIDATE R.O.**	**Notice by Candidate to R.O. of Appointment of Agents to attend at issue of POSTAL BALLOT Papers.**	Before time fixed under Serial V for issue of Postal Ballot Papers.	Before Serial AD.	**Reg. 38 (3).**	For permitted number see Serial V and Reg. 38 (2).
AC	**R.O.**	**R.O. gives PUBLIC NOTICE of Polling Stations, voters entitled to vote and mode of voting.**	At the time of publishing Statement of Persons nominated under Serial W or afterwards.	On or after Serial W.	**P.E.R. 23 (2).**	As to "public notice," see s. 171 (3). This notice may be combined with serial W.
AD	**R.O.**	**R.O. issues Postal Ballot Papers.**	"As soon as practicable," *i.e.*, as soon after Nomination Day as Ballot Papers printed and lists, etc., prepared.	After Serial W.	**P.E.R. 25. Reg. 36–46. H.O. Circ., R.P.A. 58, paras. 13 and 21.**	Ballot paper accompanied by Declaration of Identity (**Form PE.46**) and envelope for their return. **PE.45c** also sent to postal proxy.
AE	**CANDIDATE R.O.**	**Notice by Candidate or Election Agent to R.O. of particulars of (*a*) Polling Agents for detecting personation and (*b*) Counting Agents—last day.**	Appointment made before commencement of Poll. Notice as to Counting Agents not later than second day before day of the Poll.	May 24 (latest).	**P.E.R. 31 (2).**	For formula limiting number of Counting Agents, see P.E.R. 31 (1), and Note to Serial Z above.
AF	*Election Agent (County Constituencies only).*	*Election Agent to declare in writing to the R.O. the name, address and office of every Sub-Agent—last day.*	*One clear day before the day of the Poll.*	*May 24*	**ss. 56 (3) and 57.**	*Applicable to County Constituencies only.*
AG	*R.O. (County Constituencies only).*	*R.O. gives Public Notice of name, address and office of Sub-Agents.*	*Forthwith upon Declaration under Serial AF.*	*Forthwith after Serial AF.*	**ss. 56 (3) and 57.**	*Applicable to County Constituencies only. As to public notice, see s. 171 (3).*
AH	**R.O. CANDIDATE**	**Notice by R.O. to Candidates as to time and place of Opening Postal Voters' Ballot Boxes.**	At least twenty-four hours' notice in writing.	May 24	**Reg. 48 (3).**	Notice also states number of Agents Candidate may appoint under reg. 38 (2). **Form PE.28.** In order to expedite count R.O. may now open all such boxes save one before the close of Poll.
AI	**R.O. Police R.O.'s staff**	**Giving of Certificate of Employment to (*a*) Police Constable and (*b*) R.O.'s staff on duty on Polling Day.**	No time specified. Normally before Polling Day.	May 25	**s. 12 (6). Reg. 34. P.E.R. 33 (2) and (3).**	**Form PE.7 (Regs. Appendix Form "G").** To be signed by Police Inspector or R.O. as case may be.
AJ	**CANDIDATE or ELECTION AGENT R.O.**	**Last day for receipt by R.O. from Candidate of Notice as to Vehicles for conveyance of voters to or from Poll.**	So as to be received by R.O. before the day of the Poll.	May 25	**s. 88. Reg. 63. H.O. Circ., R.P.A. 58, para. 22.**	**Form PE.47** (now revised with over print of "G.E.") available for windscreen of such vehicles. Limit of vehicles employed by Candidate: one per 1,500 electors (or 2,500 for Borough Constituencies).
AK	**CANDIDATE R.O.**	**Notice by Candidate to R.O. of names and addresses of Agents to attend at opening of Postal Voters' Ballot Boxes.**	Before time fixed for opening Postal Voters' Ballot Boxes. (See Serial AH).	Before May 26	**Reg. 38 (3).**	R.O. may limit number of agents to not more than one per candidate per batch of envelopes.
AL	**General**	**Declaration of Secrecy.**	Before the opening of the Poll except for persons attending the count only.	Before May 26	**s. 53 and P.E.R. 32.**	**Forms PE.15, 16 and 55 (Postal Ballot Papers staff).**

Serial	*Principal person to take action*	*Proceeding*	*Definition of Date and/or Time*	*Date and Time. For explanation of symbols " D ", " + ", etc., see Notes (a)—(b) below*	*Statutory Provisions, Representation of the People Act, 1949, and Regulations, 1950 and Home Office Circulars and Forms. For explanation of P.E.R. see Note (a) below*	*Remarks*
1	2	3	4	5	6	7
AM	**R.O. Counting Agent**	**R.O. gives Notice in writing to Counting Agents of time and place when counting of votes will begin.**	No time specified but must be before count begins.	Before May 26	P.E.R. 45 (1).	**Form PE.18.** It is customary to give notice to Candidates also. For persons entitled to attend the count see P.E.R. 45 (2).
AN	**GENERAL**	**POLLING DAY**	**Between 7 *a.m.* and 9 *p.m.* on the 9th day after the last day for delivery of Nomination Papers.**	**THURSDAY MAY 26 POLLING DAY**	P.E.R. 1. H.O. Circ., R.P.A. 58, para. 1 (*d*)	
AO	**R.O.**	**THE COUNT**	As soon as practicable after the Close of Poll.	May 26 or after.	P.E.R. 45-50. H.O. Circ., R.P.A. 58, para. 1 (*e*).	The Count may not be adjourned except with consent of Candidates, their election or counting agents. See P.E.R. 55 and 56 as to verification of Ballot Paper Accounts and Delivery of Documents. Form **PE.26** (Result of Poll).
AP	**R.O.**	R.O. (*a*) **Makes Declaration of Result.** (*b*) **Returns name of elected Candidate to Clerk of the Crown.** (*c*) **Gives Public Notice of Result**	When result of the Poll has been ascertained.	May 26 or 27 or after **DAY RESULT DECLARED**	P.E.R. 51 and 52. H.O. Circ., R.P.A. 58, para. 3 (ii), 24 and 25.	**Form** of Return Sch. 2 Appendix. As to " public notice," see s. 171 (3). **Forms PE. 26** (Result of Poll), **19** (Report to Clerk of Crown) **and 20** (Statement as to issue of Postal Ballot Papers). Copies of **Forms P.E.20 and 26** should also be sent to Home Office.
AQ	**R.O. CANDIDATE**	(*a*) **R.O. returns Deposit (£150) to Candidate.** (See Col. 7.) (*b*) **R.O. sends any forfeited deposit by Cheque to Treasury.**	(*a*) **As soon as practicable after the result of the election is declared.** (*b*) **Ditto and within fourteen days.**	**DAY RESULT DECLARED** or after	P.E.R. 54. H.O. Circ., R.P.A. 58, para. 34.	**Candidate's deposit forfeited if he does not poll one-eighth of total votes polled, excluding spoilt and rejected ballot papers.**
AR	**Various ELECTION AGENT**	**Last day for sending to Election Agent claims in respect of Election Expenses.**	Within fourteen days after day result of election is declared.	**D.R. + 14**	s. 66 (1).	Claim is barred if not made in time.
AS	**CANDIDATE**	**Candidate sends to Election Agent written statement as to Personal Expenses.**	Within time limited for sending in claims, *i.e.*, within fourteen days after day result of election is declared.	**D.R. + 14**	s. 62 (2).	Maximum expenditure in s. 62 (1) is £100. Any further personal expenses must be paid by election agent.
AT	**PERSON AUTHORIZED BY ELECTION AGENT**	**Sending of Statement of Particulars as to Petty Expenses authorized in writing by Election Agent.**	Within time limited for sending in claims. See Serial A.R.	**D.R. + 14**	s. 62 (4).	Payments must be vouched for by a bill with receipt.
AU	**CERTAIN PERSONS AUTHORIZED BY ELECTION AGENT R.O.**	Last day for sending to R.O. and Clerk of the Crown of **Return and Declaration of certain expenses** by persons authorized in writing by Election Agent.	Within fourteen days after date of publication of the Result of the Election.	**D.R. + 14**	s. 63 (2) and (4).	**See s. 63 for important qualification. Not applicable to persons engaged or employed for payment by Candidate or Election Agent.**
AV	**ELECTION AGENT**	**Last day for Paying claims for Election Expenses.**	Within twenty-eight days after the day the result of the Election is declared.	**D.R. + 28**	s. 66 (2).	**See s. 66 (3)—(7) for exceptional cases.**
AW	**ELECTION AGENT R.O.**	**Last day for transmission to R.O. of Return and Declaration of Election Agent as to Election Expenses.**	Within thirty-five days after day the result of the Election is declared.	**D.R. + 35**	ss. 69, 70 and Sch. 5.	For **Form** and content of Return and Declaration, see s. 69 and Sch. 5.
AX	**CANDIDATE**	**Last day for transmission to R.O. of Declaration by Candidate as to Election Expenses.**	Within seven days after Return under Serial A.W.	**Serial AW + 7**	s. 70 (2) and Sch. 5.	**See s. 70 for special provisions if Candidate outside U.K. or acting as his own Election Agent. See also note to Serial AW above.**
AY	**R.O.**	**Publication by R.O. in two local newspapers of Summary of Return as to Election Expenses.**	Within ten days after R.O receives from Election Agent Return under s. 69 (See Serial AW).	**Serial AW + 10**	s. 76.	**R.O. shall also provide facilities for inspection. Fee 1s. Copies at 2d. per 72 words. See s. 77.**
AZ	**PETITIONER R.O.**	**Last day for Presentation of Election Petition :—** (*a*) General. (*b*) Alleging illegal practice in connexion with the Return of Election Expenses.	(*a*) Within twenty-one days after the Return has been made to Clerk of the Crown. (*b*) Not later than fourteen days after the last Return and Declaration under Serial AW and AX.	**Serial AP + 21** **Serial AW & AX + 14**	(*a*) s. 109 (1). (*b*) s. 109 (3) and (4).	**See s. 109 (2) and (3) (*b*) for special provisions for extension of time where allegations of certain payments made. R.O. is required to publish Petition: see s. 108 (4).**
BA	**PETITIONER**	**Petitioner gives Security for costs of Election Petition (£1,000).**	Within three days after presenting Election Petition.	**Serial AZ + 3 days**	s. 119 (1).	
BB	**R.O.**	Service by Petitioner on Respondent of Notices as to Petition and Security.	**Within the prescribed time not exceeding 5 days after Serial AZ.**	**Serial AZ + 5 days**	s. 119 (3).	**Respondent may object, s. 119 (4).**
BC	**R.O.**	Last day for submission by R.O. to Treasury of accounts of R.O. expenses.	Within eight weeks of the day of Nomination.	**Serial O + 8 weeks**	**Treasury Regulations, 30 Nov., 1949, made under R.P. Act, 1948, s. 18 (6).** H.O. Circ., R.P.A. 58, para. 35.	**The current statutory authority for the regulations is now R.P. Act, 1949, s. 20 (6). The 1949 Regulations continued in force by R.P. Act, 1949, s. 175 (2).**

Serial	*Principal person to take action*	*Proceeding*	*Definition of Date and/or Time*	*Date and Time. For explanation of symbols "D", "+", etc., see Notes (a)—(b) below*	*Statutory Provisions. Representation of the People Act, 1949, and Regulations, 1950 and Home Office Circulars and Forms. For explanation of P.E.R. see Note (a) below*	*Remarks*
1	2	3	4	5	6	7
BD	**R.O.**	**Register of Vehicles ceases to be available for inspection** and R.O. shall destroy it.	After one year from the day of the Poll.	PD + one year	Reg. 63 (5).	
BE		**Commencement of proceedings for offence under s. 73** (Penalty for sitting or voting after failure to transmit return, etc.).	Within one year after offence committed.	Serials AW and AX + one year	s. 73 (3).	See s. 73 for special cases.
		Commencement of proceedings for certain offences. (See Remarks.)	Within one year after the offence committed.	One year after offence	s. 154.	See ss. 154 and 155 for special cases. Offences are corrupt or illegal practice, illegal payment, employment or hiring or any offence under ss. 86 (1), 95 or 129.
BF	**R.O.**	**Returns and Declarations cease to be available for inspection** and R.O. may destroy them.	Two years after Returns, etc., received by R.O. under ss. 63, 69 and 70.	D.R. + two years forty-two days	s. 77.	If candidate or election agent so require documents shall be returned to candidate. See also Note (c).

NOTES

(a) "D" = Day of receipt of official telegraphic intimation of the Writ having been issued. For the purposes of this Table it is assumed that such telegram will be received on the same day as the date of the Proclamation summoning the new Parliament. Action may be taken on receipt of telegram as if Writ had been received. P.E.R. 5.
E.R.O. = Electoral Registration Officer. (See s. 6.)
H.O. Circ., R.P.A. = Home Office Circular, R.P.A. Series (not on general sale).
L.E.A. = Local Education Authority.
"P.D." = Polling Day. "D.R." = Day Result Declared. "R.O." = Returning Officer. (See ss. 17 and 18 as to discharge of functions.) P.E.R. = Parliamentary Election Rules (Schedule 2 to the Representation of the People Act, 1949).
(b) Plus sign thus :—"+" indicates period (in days unless otherwise stated) after the day specified.
(c) Destruction of Election Documents. The Clerk of the Crown normally destroys all election documents after one year. P.E.R. 58.
(d) "**Regs.**" refers to the Representation of the People Regulations, 1950, S.I. 1950 No. 1254, as amended by S.I. 1953 No. 1107 (referred to as "1953 Regs.") and S.I. 1954 No. 498 (referred to as "1954 Regs.").
(e) "**s**" refers to Sections of the Representation of the People Act, 1949, which may be found annotated in Halsbury's Statutes (2nd Edn.), Volume 8.
(f) "Sch." refers to Schedules to the Representation of the People Act, 1949 (Schedule 2 includes the Parliamentary Election Rules).
(g) TIME. In general Sundays and public holidays are excluded in reckoning time for any proceedings up to the completion of the Poll. See P.E.R. 2. See also s. 106 R.P.A., 1949 (as to time in Part II of the Act of 1949), and reg. 69. H.O. Circ., R.P.A. 58, para. 1.
Serials marked thus :—‖ have been amended by regulations since General Election of 1951.

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WEEKLY NOTES OF CASES

QUEEN'S BENCH DIVISION

(Before Lord Goddard, C.J., Hilbery and Pearce, JJ.)

ULLAM *v.* BLACK

April 22, 1955

National Service—Pakistani—British Nationality Act, 1948 (11 *and* 12 *Geo.* 6, *c.* 56), *s.* 1 (1) (3)—*National Service Act*, 1948 (11 *and* 12 *Geo.* 6, *c.* 64), *s.* 8 (1).

CASE STATED by the Birmingham stipendiary magistrate.

An information was preferred at the Birmingham magistrate's court by the respondent, Black, on behalf of the Minister of Labour and National Service, charging the appellant, Ullam, with failing to comply with a notice under s. 8 (1) of the National Service Act, 1948, requiring him to submit himself to medical examination.

The appellant, a citizen of Pakistan, was born at Alompur, Bengal, then in British India, on December 10, 1930. On December 4, 1951, he came to this country to assist a relative who was in business in Birmingham. The magistrate held that the appellant was not here for a temporary purpose only, and, being a citizen of Pakistan, he had British status, and was liable for service under the National Service Act. He made an order under s. 8 (5) of the Act that the appellant should submit himself to medical examination. The appellant appealed.

Held, that the appellant was given the status of a British subject by s. 1 of the British Nationality Act, 1948, and, accordingly, as his residence in this country was not of a temporary nature, he was liable for military service under the National Service Act, 1948. The appeal must, therefore, be dismissed.

Counsel: *Ali Mohammad Abbas & Muhammadi* for the appellant; *S. B. R. Cooke* for the respondent.

Solicitors: *A. C. de St. A. De Fleury, Gassman & Co.*; *Solicitor, Ministry of Labour.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

DIRECTOR OF PUBLIC PROSECUTIONS *v.* BARNES

April 21, 1955

Local Government—Meeting of committee of local authority—Pecuniary interest of member of Committee in matter subject of consideration—Failure to disclose—Offer of lease of land to company in which member shareholder—Local Government Act, 1933 (23 *and* 24 *Geo.* 5, *c.* 51), *s.* 76 (1).

CASE STATED by Southport justices.

At a magistrates' court at Southport an information was preferred by the appellant, the Director of Public Prosecutions, charging the respondent, John Barnes, that, on June 22, 1954, being a member of the town planning and building plans committee of the Southport borough council, he failed to disclose that he had an indirect pecuniary interest in a matter which was the subject of consideration at a meeting of the committee, at which he was present, and in which he took part, contrary to s. 76 (1) of the Local Government Act, 1933.

According to the Case Stated, J. A. & P. Holland, Ltd., of which the respondent was a shareholder, made proposals to the Southport borough council to lease land from them. At a meeting of the parks committee on March 22, 1954, the chairman and vice-chairman reported on an interview with representatives of the company, and the committee resolved that, subject to the consent of the Minister of Housing and Local Government, the company should be offered a lease. On April 6 the council confirmed the decisions of the parks committee. At a meeting of the town planning committee on June 22, at which the respondent was present, the minutes of a further meeting of the parks committee on the previous day were read, and the respondent took part in the discussion which followed.

The magistrates dismissed the information and the Director appealed.

By s. 76 (1) of the Local Government Act, 1933: "If a member of a local authority has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter, and is present at a meeting of the local authority at which the contract or other matter is the subject of consideration, he shall at the meeting . . . disclose the fact, and shall not take part in the consideration or discussion of . . . the contract or other matter . . ."

Held, that the respondent had enough shares in J. A. & P. Holland, Ltd., to give him an indirect pecuniary interest in the matter, which he should have disclosed, and the case must be remitted to the justices with a direction to convict.

Counsel: *Rodger Winn* for the appellant; *Rigg* for the respondent.

Solicitors: *Director of Public Prosecutions*; *W. & R. Hodge & Halsall*, Southport.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

MISCELLANEOUS INFORMATION

NOTTINGHAMSHIRE BUDGET 1955/56 AND ACCOUNTS 1953/54

Nottingham county treasurer, Mr. J. Whittle, B.Com., A.C.A., F.I.M.T.A., pioneer of the combination of accounts and estimates in one printing, has again sent us a copy of his excellent publication, which includes a very useful section of costs and other statistics.

Population and penny rate product both continue to grow: the former at mid-year 1953 was 541,000 and showed an increase of 1·3 *per cent.* while the penny rate produced in 1953/54 £12,258, an increase of 3·5 *per cent.* over the figure 12 months previous. Rateable value per head of population at £5 12*s.* qualifies for an equalization grant of £1,374,000 and the county rate burden per head was £4 0*s.* 9*d.*, total expenditure being met in the following proportions:

From	*Per cent.*
Government Grants	66
Other Income	9
Rates	25
	100

Mr. Whittle draws attention to exceptionally heavy items in his preface to the cost statements submitted. We note that the staffing costs at a children's nursery were £5 3*s.* 4*d.* a week in 1953/54—about twice the average figure for children's homes, that the burden of hostels provided for working boys and girls fell very largely on the public funds and that the weekly cost at the boys' hostel was practically £11, that economies were effected by closing certain day nurseries, and that remand home occupancy remained low and costs high (£10 10*s.* a week). We understand that a nation-wide review of remand home accommodation is being made—it is high time that the waste involved in maintaining so many partially occupied homes was eliminated. In 1951 Mr. Butler said that one of the most important tasks was to reduce Government expenditure and he instanced grants on local government expenditure as being an item where the burden should be lightened. He could well make a start, even at this late hour, by speeding action on this particular item.

Mr. Whittle estimates that gross expenditure for 1955/56 will slightly exceed £9¾ million (education £5¼ million, highways £1¼ million): although this is £1 million more than the previous year a reduction of the county precept by 1*s.* to 14*s.* is nevertheless recommended. This is made possible by taking £478,000 from balances, equal to a rate of 3*s.* 1*d.* Underspendings in previous years have boosted balances to £837,000 at March 31, 1955. Mr. Whittle comments: " The proposed withdrawal from balance is exceptionally large but the financial year ending on March 31, 1956 will, it is confidently expected, be the last under the present system of valuation for rating . . . It would seem reasonable at a time of such major change in the principles underlying valuations for local rating that balances should be reduced to a minimum."

SHEFFIELD MAGISTRATES' COURTS COMMITTEE

During the year ended November 30, 1954, the city of Sheffield magistrates' courts committee held 10 meetings, and there seems to have been plenty of business to transact. One important matter was the provision of a suitable court in contemplation of the holding of Assizes at Sheffield. The city justices have been anxious that Assizes should be held in the city and have done everything in their power to facilitate building extension so as to provide suitable accommodation. This has involved some personal inconvenience to the justices and the clerk, who have been deprived from time to time of the use of court rooms and other accommodation.

There is evidence of good co-operation between the committee and the local authority.

The committee have readily agreed that for a trial period of 12 months representatives of the local authority will be invited to attend meetings of the magistrates' courts committee when items concerning the administration of the court house including the Assize Courts are considered.

The requirements of the justices must have first priority; otherwise, it is desirable that as much use as possible should be made of the increased accommodation. The magistrates' courts committee, together with representatives of the local authority, will consider how far it is practicable to accommodate meetings of various bodies now held at the town hall, in the court house.

In connexion with the training of justices the committee were fortunate enough to be able to secure the Lord Chief Justice and Sir Frank Soskice, Q.C., M.P., to deliver addresses. The meetings were " reasonably well attended " but the committee wish to see a greater number of Sheffield justices present.

As the Legal Aid and Advice Act has not yet been brought into force in its entirety, and it is still impossible for legal aid to be granted in magistrates' courts in civil cases, the committee, feeling that matrimonial cases often involve difficult questions of law and complicated issues on evidence, have established a voluntary fund for the purpose. Where the bench considers that an unrepresented party needs legal assistance, a small sum from the fund will be allotted for this purpose.

COUNTY BOROUGH OF ST. HELENS—CHIEF CONSTABLE'S REPORT ON LICENSING MATTERS FOR 1954

St. Helens has 164 licensed premises and 47 registered clubs for a population of 110,300. The chief constable reports that the easing of building restrictions has enabled owners to go ahead with many structural improvements to licensed premises, and he lists some 18 premises and reports on the progress of the work in each case.

He comments on applications for occasional licenses being made without it being known by the promoters what the attendance is likely to be, and suggests that such applications are sometimes made much sooner than they need be in order to try to encourage the sale of tickets by stating that a licence has been obtained. His point is that attendances at functions have sometimes been very sparse, and it is open to question, when so few attend, whether it can really be said that " the grant of a licence is expedient for the convenience and accommodation of the public."

There was a considerable increase in the number of persons proceeded against for drunkenness during 1954 compared with 1953, the respective figures being 70 and 43. In 1945 the number was only seven, and there has been a steady tendency for the figures to increase since then. Commenting on the increase the chief constable states that experience shows that in busy periods, when supervision is most necessary, the licensee tends all too often to neglect his important duty of general supervision in order to serve behind a bar. Supervision should be directed particularly to preventing the sale of intoxicants to persons under 18 years of age, a difficult task for any licensee during a rush period, and an almost impossible one if he is confining his attention to serving behind a bar.

NEWCASTLE PROBATION REPORT

In a foreword to the 1954 report of the principal probation officer for the city and county of Newcastle upon Tyne, Mr. F. Morton Smith, the clerk to the justices and secretary to the probation committee, refers to the use made by the magistrates of the attendance centre opened in December, 1951. Since that date 123 boys have been sent to the centre by the Newcastle juvenile court. Of this number 18 boys have appeared again in the court. It may be agreed from these figures says Mr. Morton Smith that the centre is achieving its object and that the figure of 18 boys who have been in trouble again does not represent an excessive proportion of the total number of boys trained at the centre. The committee and the juvenile court magistrates are satisfied, however, that the maximum period of 12 hours allowed by the Criminal Justice Act, 1948, is too short and they would welcome the following amendment to the existing legislation—" for not less than 12 hours and not more than 24 hours." With this suggestion we are in agreement, as we have always thought the maximum period insufficient. If the object is punitive and designed as a deterrent, 12 hours is not likely to be so effective as 24 hours spread over eight or 12 weeks. If we think in terms of influence and training, again the effect would in many cases be much greater.

Another point in the foreword is the use made in the adult court of a remand for inquiries after conviction, thus giving the probation officer an opportunity of investigating the circumstances of the offender before a probation order is made. On the general question of inquiries, Mr. John Taylor, principal probation officer, states that pre-trial inquiries have been made in all cases appearing before the juvenile court charged with indictable offences and post-trial inquiries in a large number of cases tried in the adult court. Inquiries have also been made in many cases appearing before Newcastle upon Tyne quarter sessions and Courts of Assize. In making their inquiries the probation officers have received valuable help from the governor and medical officers of Durham prison and the superintendents of the remand homes.

The results of the year's work appear to have been encouraging, judging by the statistics. Matrimonial cases dealt with by the probation officers have increased in number, and we note that a large proportion of these came direct to the probation officers without first applying to the court. Efforts at reconciliation seem to have been very successful.

ROMFORD HEALTH CENTRE

One of the first health centres to be provided under the National Health Service Act, 1946, was opened recently at Romford in Essex, and is being used mainly to meet the needs of a new London County Council housing estate. It was envisaged that four general medical practitioners would practise from the centre, but nine doctors have in fact asked that facilities may be made available for them, and it has been arranged for them all to use on a rota basis the four surgeries provided in the building. Amongst the accommodation is an interviewing room for the use of the health visitors, two dental surgeries, and a series of rooms provided for use in connexion with the ophthalmic services organized by the regional hospital board. The Essex County Council is responsible for the centre, but in accordance with its decentralization scheme it is administered by the local health area sub-committee. The allocation of accommodation and sessions between the doctors and dentists concerned is undertaken by a local professional committee consisting of the general medical and dental practitioners using the accommodation, the county medical officer and the area medical officer.

CRUELTY TO AND NEGLECT OF CHILDREN

Under this title the National Association of Probation Officers has published, by permission of the British Medical Association and the Magistrates' Association, a memorandum submitted by invitation by N.A.P.O. to a joint committee of the two associations on "Cruelty To and Neglect of Children."

It is stated that N.A.P.O. intends from time to time to publish matters of interest to its members and to the general public in accordance with the objects of the association, one of which is "to publish matters relating to the prevention and treatment of delinquency and to the other social services of the courts." This pamphlet is published as Probation Papers No. 1, and costs 1*s*.

COLONIAL IMMIGRANTS

For some time there has been considerable comment in the daily press as to the large number of Colonial immigrants to this country particularly from the West Indies. About 11,000 have arrived this year. Often there is difficulty in their obtaining suitable employment and although there is no evidence of the existence of a "colour bar" there has been hesitation on the part of some employers and of some workers to accept without misgivings the necessity for people who are not used to the conditions of this country or of the employment arrangements to come into industry in large numbers, even during the existing condition of full employment. It was pointed out in a recent adjournment debate in the House of Commons that considerable difficulty has been caused at Sheffield by a large number of Jamaicans arriving there for work for whom the conditions of employment were very unsuitable. Much difficulty as to housing often also arises and there are also social difficulties.

Under the existing law, as has been stated several times in the House of Commons, any British subject from the Colonies is free to enter this country at any time if he can produce satisfactory evidence of his British status. Welfare officers from the Colonial Office meet each boat from the West Indies and advise the immigrants, but the main difficulty is always accommodation. Many of the immigrants have congregated in sub-standard houses and congested conditions which tend to create tension and ill-feeling with local residents. Tribute was paid in the House of Commons by the Minister of State for Colonial Affairs (Mr. Henry Hopkinson) to the work being done by voluntary bodies such as the National Council of Social Service and the British Council of Churches in sponsoring local committees to help to promote contact between immigrants and local residents. The National Council has recently summarized the position generally, and has pointed out that in 1952 the Colonial Office set up a consultative group on relationships with coloured people in the United Kingdom which has been concerned to build up contacts with all local organizations, working to promote the welfare of coloured workers. But statutory and voluntary bodies in places with large permanent or transient coloured populations, such as London, Birmingham, Liverpool, Bristol, Nottingham, Manchester, Sheffield and Leeds have continued to experiment with clubs, evening institutes, advisory services and so on. The Birmingham city council has recently appointed a retired Colonial servant as liaison officer to help to deal with the problem of a coloured population which now numbers several thousand. There also and at Manchester the local education authority has established evening institutes to cater for the special requirements of the immigrants.

Coloured students also provide special problems, and at the recent annual meeting of the National Council reference was made to an inquiry which is being undertaken for the London Council of Social Service on how overseas students in Paddington can be best introduced to the life of the borough. One need which has been found there and which has been met by the borough council, is an extension of library facilities for overseas students not only to enable them to refer to books but to have a warm place in which to study. It is to be hoped that as a result of this inquiry the position will be improved in Paddington and other London boroughs but that guidance will also be given as to the kind of action which is most appropriate in other parts of the country.

LEICESTERSHIRE AND RUTLAND— CHIEF CONSTABLE'S REPORT FOR 1954

This is an elaborate report beginning with a page and a half of "Contents" followed by five pages of "Index," and occupying in all some 59 pages. It gives a great deal of interesting and detailed information, from which we can only select at random. The force is organized into headquarters and five divisions, Coalville, Hinckley, Leicester, Loughborough and Melton and Rutland.

In a foreword, the chief constable refers to the plan which he prepared in 1950 for reorganizing the Leicestershire constabulary and which was in due course approved by the Home Office. This necessitated a further plan to increase the number of police houses. The work to bring these two plans into effect has gone on ever since. Nothing stands still, and it has now been necessary to prepare further plans, one dealing with manpower and vehicles and the other with housing, and these are now under consideration.

Since 1950, three changes have occurred which affect the problems police have to deal with, a marked decrease in crime, an enormous increase in traffic and the development of new communities in places which were previously open fields.

The chief constable regards the problem of obtaining a sufficient number of suitable recruits and of retaining them in the service as a most worrying one, and he discusses frankly the difficulties which have to be faced. His conclusion is that no matter how interesting police work may be or how much time is spent on welfare work or money on housing, in the final assessment the young police officer today weighs the police pay packet against the "civilian" pay packet, and until the former really compensates for the additional hours and many inconveniences (to his family as well as to him) of the police service the decision in many cases will be in favour of the "civilian" job.

There is a paragraph dealing with the importance, especially in rural areas, of the man on the beat whom the public come to know and to trust and to confide in.

The authorized establishment was increased in November, 1954, and is now 506. Appendix A shows that on December 31, 1954, the actual strength was 470, a shortage of 36. Of the 230 men and 25 women who applied to join the force, 32 men and three women were accepted. One cadet, the first to do so, returned to the force after completing his national service.

The report praises the work and spirit of the special constabulary (693 men and 13 women) and says that members of the regular police feel proud to work alongside them.

Two domestic items of interest are noted, the preparation of a history of the Leicester constabulary from its inauguration in 1839 to its amalgamation with Rutland in April, 1951, and the first issue of the force magazine *Tally Ho*, which has just been published.

There was a noticeable reduction in the number of crimes recorded, 2,083 for 1954 against 2,507 for 1953. The crimes detected were 1,145 (54·96 *per cent.*) and 1,481 (59·07 *per cent.*) respectively. A special crime squad formed in 1953 at the headquarters has materially helped all divisions, particularly in dealing with the more serious crimes. Thanks are expressed to the officer commanding the War Department Dogs' Training School at Melton Mowbray for his ready and prompt response to any request for the use of his dogs.

Following the issue in 1953 of a booklet "The Burglar and You" throughout the two counties every effort has been made to enlist public co-operation in the prevention of crime. The ability of the police to respond quickly to telephone and other calls is a great help in inspiring public confidence.

There are 125 police vehicles and they covered, in 1954, a total of 1,792,919 miles. The chief constable considers it is vitally important to the trade and commerce of the country, as well as to the safety of all who use the roads, that there should be adequate police patrols, especially wireless cars, on all our main roads. Without their presence to ensure obedience to traffic regulations, traffic does not flow freely and costly delays occur. The number of vehicles is constantly increasing and at times the congestion is quite frightening. In spite of their many duties the police found time to give practical instruction, by motor patrol officers, to learner-drivers in their own cars, thus helping drivers to pass the Ministry of Transport test. There is a good deal to be said for giving such help to the public, though some might argue that in such a matter cost should not fall indirectly on public funds, and that people should pay for such instruction as they need.

PERSONALIA

APPOINTMENTS

Mr. T. O. Davies, clerk to Brixham, Devon, urban district council, has been appointed chief law officer to Bracknell, Berks., development corporation.

Mr. H. L. Sagar, deputy town clerk of Farnworth, Lancs., for the past eight years, has been appointed clerk and solicitor to the Ripon and Pateley Bridge, Yorks. (W. Riding), rural district council, in succession to Mr. J. A. Churchill, who has been appointed clerk and solicitor to Cuckfield, East Sussex, rural district council.

Mr. G. C. Child, LL.B., A.C.C.S., has been appointed assistant solicitor in the town clerk's department of Oxford city council. Mr. Child was formerly in the same capacity at Finchley, N.3, where he was articled to Mr. R. M. Franklin, M.A., LL.B., the town clerk.

Mr. William John Woolley, senior partner of Woolley and Co., solicitors, of Wolverhampton, Staffs., and Bridgnorth, Salop, has been appointed coroner for Bridgnorth and district. Mr. Woolley was admitted in January, 1924. The new deputy coroner is Mr. Edward Thomas Stirk of Wolverhampton, who was admitted in February, 1931.

Mr. R. Gwynne Richards has been appointed clerk to Mountain Ash, Glam., urban district council, succeeding Mr. B. M. Murphy, who has been appointed clerk to Pontypridd, Glam., urban district council. Mr. Richards has been sole assistant solicitor to the South Wales Electricity Board for the past three years, and his previous appointments were: assistant solicitor to Mountain Ash urban district council from 1941 to 1942, clerk to Kidsgrove, Staffs., urban district council from 1942 to 1945, and clerk to Cleethorpes, Lincs., borough council from 1945 to 1952.

Mr. Roger John Betteridge, LL.B., a solicitor in practice in Lincoln, has been appointed clerk to the justices for Sleaford, Lincs., Parts of Kesteven, petty sessional division. He was admitted in 1947. Since April, 1953, he has been clerk to the justices for the petty sessional divisions of Lincoln and Wragby in the county of Lincoln, Parts of Lindsey, and he still continues to hold these appointments. Mr. Betteridge succeeds Mr. G. G. Jeudwine who died last October, as reported at 118 J.P.N. 686.

Mr. Mark Freedman, formerly in private practice, has been appointed assistant solicitor for the borough of Acton, W.3, and began his duties on April 18, 1955. He succeeds Mr. A. A. E. Gilbert, who has been appointed senior assistant solicitor with the Hampstead borough council, N.W.3.

Mr. G. W. Parkinson and Miss B. Marcus have been appointed whole-time probation officers in the London Probation Service. They were both trained under the Home Office training scheme.

Miss Monica Doris Smith and Miss Ruth Turnbull have been appointed probation officers for Hampshire county, commencing their duties on April 25. Both these officers were Home Office trainees. Miss Smith is taking the place of Miss P. J. Evans who has resigned, and Miss Turnbull is to act as an additional woman officer.

RETIREMENTS

Mr. M. Pardoe, clerk to the justices, Coleford division, Gloucestershire, since 1943, is retiring on May 9, on reaching the retirement age of 70.

Mr. T. D. Whalley is retiring from his position as clerk to the justices of Bournemouth, Hants., at the end of June, after 34½ years' service, and Mr. J. G. F. Shergold has been appointed to succeed him. Mr. Shergold has, for 24 years, been an assistant clerk at Bournemouth, the last 10 years as deputy to Mr. Whalley.

OBITUARY

The Right Honourable Sir Lyman Duff, G.C.M.G., Chief Justice of Canada from 1933 until 1944, has died at the age of 90. Sir Lyman Duff took his LL.B. at Toronto University in 1889. He was called to the bar in Ontario in 1893 and began practising there, later moving to British Columbia, where he was created K.C. in 1901. In 1904 Sir Lyman was made Judge of the Supreme Court of British Columbia, and in 1906, he was promoted to the Supreme Court of Canada. Sir Lyman received an honour that has seldom been conferred upon any Judge from the Dominions, other than a Chief Justice, when he was appointed a member of the Judicial Committee of the Privy Council in 1919. In 1933, Sir Lyman succeeded Chief Justice Anglin as Chief Justice of Canada. He was well known at the English bar, being an honorary bencher of Gray's Inn.

Mr. Richard Sandford, clerk to Albrighton, Salop, justices from 1903 to 1953, has died at the age of 91. Mr. Sandford, who was admitted in August, 1887, was the oldest practising solicitor in Shropshire.

Mr. Ernest Percy Barnes, a former chief superintendent of Bristol city constabulary, has died at the age of 74. Mr. Barnes retired in 1941, after 37 years in the Bristol force. He joined in 1904, and was promoted superintendent in July, 1924, and chief superintendent eight years later.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

HORROR COMICS BILL

The Children and Young Persons (Harmful Publications) Bill has passed through the House of Lords and is expected to receive the Royal Assent before Parliament is dissolved on May 6.

PROSTITUTION AND HOMOSEXUAL OFFENCES

The Secretary of State for the Home Department, Major Lloyd George, told Lt.-Col. M. Lipton (Brixton) in the Commons that the committee investigating the law relating to homosexual offences and prostitution was still receiving evidence and it was not yet possible to say when it was likely to report.

Lt.-Col. Lipton: "Will the Home Secretary do his best to get the committee to speed up its Report and so end as quickly as possible the very unseemly hypocritical state of affairs now existing in London, whereby increasing numbers of women are soliciting in the streets, subject only to a regular payment of 40s. whenever the police and the local magistrate think fit?"

Major Lloyd-George: "In common with most Members, I regard this as a very serious matter. I do not think that it would help if we stressed too much the need for speed in the committee's work, because large numbers of bodies are still anxious to give evidence. As the committee started work only in September, I do not think we can complain about delay up to now."

MAGISTRATES' COURT, BALHAM

Sir H. Linstead (Putney) asked the Secretary of State the reason for the delay in rebuilding the magistrates' court at Balham; when work will start; and when the new court will be completed.

Major Lloyd-George replied that the rebuilding of the metropolitan magistrates' court at Balham was interrupted by the war and its resumption had been delayed by the need for economy in capital investment. He was fully aware of the need for the new building, but he was still not able to say when work on it would start.

Sir H. Linstead: "Does my right hon. and gallant friend realize how extraordinarily overcrowded that building is, and how bad and undignified the conditions are? Can he not give the rebuilding a very high priority in the works for which he is responsible?"

Major Lloyd-George: "I can say that that will be the first court to be rebuilt."

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, April 26

REQUISITIONED HOUSES AND HOUSING (AMENDMENT) BILL, read 2a.

Thursday, April 28

CHILDREN AND YOUNG PERSONS (HARMFUL PUBLICATIONS) BILL, read 3a.

HOUSE OF COMMONS

Monday, April 25

FINANCE BILL, read 2a.

NATIONAL INSURANCE (No. 2) BILL, read 2a.

Tuesday, April 26

OIL IN NAVIGABLE WATERS BILL, read 3a.

PUBLIC SERVICE VEHICLES (TRAVEL CONCESSIONS) BILL, read 3a.

Wednesday, April 27

NATIONAL INSURANCE (No. 2) BILL, read 3a.

Friday, April 29

FINANCE BILL, read 3a.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 33.

ANOTHER RADIO ENTHUSIAST IN TROUBLE

It will be recalled that last week there was reported in this column the conviction of a young radio enthusiast at Nottingham who broadcast a programme on Sunday mornings for the benefit of his friends and others within a four-mile radius of his home without having obtained a licence so to do.

In the course of comment upon that conviction, the writer mentioned that the more usual prosecution under the Wireless Telegraphy Act, 1949, was in respect of receiving signals, and the writer was under the impression that such cases were not rare.

It would seem that such prosecutions may be more infrequent than the writer thought, for in a case heard by the Andover magistrates earlier this month a statement was made by the chairman, according to *The Times*, which is surprising.

The defendant, a 34 year old Army major, was charged with the unlawful use of a wireless telegraphic apparatus, in that he received a police wireless message when not authorized to do so by the Postmaster-General, contrary to the Act.

For the prosecution, evidence was given that defendant, when driving his car late at night, had come across a woman unconscious by the roadside and rendered most helpful assistance. A police constable went to thank him, and was amazed when he heard a police message about the incident coming over a radio set in defendant's car. The car, when examined, was found to have two radio sets fitted, one of very high frequency.

The defendant, who gave evidence, said that he had switched on the set to see if there were any police cars in the area because he wanted to get immediate assistance to the woman in the road. He did not think he was doing anything illegal. He had purchased the set in Germany where broadcasting over the V.H.F. system was widely used.

The chairman, in stating that the court found the case proved, said " You did it, we think, in ignorance which is equal to our own, for not one of us here realized it was an offence." The chairman added that the court had no hesitation in granting an absolute discharge as " it was at the most a technical offence."

COMMENT

Although use of the set in the case outlined above was made with the best possible motives, it should be remembered that not all offenders against this statutory provision are actuated by equally high motives. There have been many cases where offenders have listened in, without authority, to messages passing between various units of the police so as to get advance information of incidents which occurred either for news purposes or, in the case of fires or accidents, for even less creditable reasons. R.L.H.

No. 34.

A MOTOR VEHICLE NOT WITHIN THE ROAD TRAFFIC ACT, 1930

An interesting case came before the Llandudno justices earlier this month when the driver of a motor vehicle known as a " dumper " was summoned for using the vehicle without there being in force a policy of insurance in respect of third-party risks contrary to s. 35 of the Road Traffic Act, 1930. A firm of public works contractors, by whom the first defendant was employed, was summoned for " permitting."

For the prosecution, evidence was given that between Llandudno and Rhos on Sea Golf Club there runs a road on which there is a tollgate, and along the road itself runs the Colwyn Bay and Llandudno Electric railway, in other words a tramway. A messenger boy, who had been delivering bread at the club, fell off his bicycle as a result of coming into contact with one of the tramlines and while on the ground some portion of the dumper came into contact with him, but luckily did not cause any great personal injury. The scene of the accident was well within the site on which the contractors were carrying out extensive coastal defence works, and the dumper was being used in connexion with such work.

The local manager of the firm of contractors produced a plan and proved to the satisfaction of the justices that the accident happened well within the site of the works, and he also produced a form of contract containing what may be described as a kind of " bulk " third-party insurance undertaking. The witness stated that the clause referred to above covered the cyclist.

There was some discussion as to whether the vehicle in question fell within the ambit of s. 35 of the Act, but no authorities were quoted on either side.

After the magistrates had retired to consider the case, Lieut.-Colonel J. Douglas Porter, O.B.E., D.L., M.A., their clerk, to whom the writer is greatly indebted for this report, was summoned to advise them and upon the magistrates' return the chairman stated that the court was satisfied that in the circumstances of the case the dumper was not a motor vehicle within the meaning of s. 1 and that in any event even if compulsory insurance was applicable the bulk covenant in the contract was sufficient cover for third-party risks, and accordingly the summonses would be dismissed.

COMMENT

There can be no doubt that Colonel Porter, with his usual acumen, tendered correct advice to his justices when faced without warning with the somewhat awkward question of whether a dumper is a motor vehicle within the meaning of s. 35 of the Act.

Section 1 defines " motor vehicles " for all parts of the Act and as is well known the definition is " all mechanically propelled vehicles intended or adapted for use on roads."

In a Scottish case, *Macdonald* v. *Carmichael* (1941) S.C. (J) 27, the Court of Justiciary considered whether a " diesel dumper " when used on roads for excavation work required a third-party insurance policy and a road fund licence. The dumper was stated to consist of a " skip " in front of the diesel engine which could be tipped up so as to throw out its contents. It had no windscreen, mirror or speedometer, no springs, lamp, dynamo or battery. When loaded it could just plod along the road at 10 miles an hour and carry its load to the tipping place. The court decided that although such a vehicle may accurately be said to be a mechanically propelled vehicle used on roads it was not a mechanically propelled vehicle " *intended or adapted* for use on roads," and was therefore not a motor vehicle within the Act at all. R.L.H.

No. 35.

A POOR JOKE

A 58 year old British Railways yard inspector pleaded guilty when charged at Thornaby-on-Tees magistrates' court last month with wilfully placing a detonator on a line of railway whereby the lives and limbs of persons being on the said railway were endangered, contrary to s. 13 of the Regulation of Railways Act, 1840.

For the prosecution, it was stated that on a day in January, defendant and four other men were working together at the Newport marshalling yard, Middlesbrough. When one of the men, who were employed as shunters, left the party, defendant, who had the reputation of being a man with a sense of humour, was overheard to say " I will put the wind up X " (the man who left the party). Defendant was seen to place a detonator on the line. The detonator exploded when the wagon ran over it and a fragment of metal pierced X's thigh, causing him injuries which kept him off work for two weeks.

In a statement defendant made he admitted putting the detonator on the line " just for devilment." He added that he had not meant to injure anyone and that it was a million-to-one chance against anyone being hurt.

Defendant was fined £5 and ordered to pay £4 5*s*. 6*d*. costs.

COMMENT

By s. 13 of this old Act many offences are created under the general heading of misconduct of servants of the railway. The section strikes at engine drivers, guards and porters being found drunk whilst employed on the railway, and also covers the offence admitted in the case reported above.

It is to be noticed that the section provides that on conviction before one justice an offender may be sentenced to two months' imprisonment or forfeit £10 to Her Majesty. By s. 98 (5) of the Magistrates' Courts Act, 1952, however, the imprisonment, if the offender is convicted before one justice, must not exceed 14 days and the sum adjudged to be paid must not exceed 20*s*.

(The writer is indebted to Col. H. G. Faber, T.D., clerk to the Stockton-on-Tees justices, for information in regard to this case.) R.L.H.

PENALTIES

Scarborough—April, 1955. Stealing a total of £85 10*s*. 6*d*. (four charges). Fined £100. Defendant, a 35 year old schoolmaster, described as a born teacher and brilliant man, asked for 10 similar offences involving £34 to be taken into account. The money was stolen at the college at which defendant taught. Defendant was said to have been losing money betting on horse racing.

Leeds—April, 1955. Causing unnecessary suffering to a cat. Fined £20, to pay £5 5*s*. costs. Forbidden to have a cat for five years. Defendant, a librarian, told an R.S.P.C.A. inspector that she was a Christian Scientist and had adopted Christian Science methods in treating the cat. The cat which had had a serious mouth condition for six months had to be destroyed.

Thames Magistrates' Court—April, 1955. Being in possession of 6,790 grains of raw opium. Fined £100. Defendant, a 37 year old Chinese seaman. The opium was stated to be worth £2 per grain.

Burnham-on-Sea—April, 1955. Firing a gun in the carriageway. Fined £1. Defendant discharged a loaded ·22 air rifle in the middle of a road at a time when other people were using it.

Derbyshire Quarter Sessions—April, 1955. Receiving 67 bundles of mild steel strips, 52 bundles of sheared-edge strips and 89 mild steel rods. Fined £500 and to pay costs of the prosecution not exceeding 200 guineas. Defendant, the 44 year old managing director of a scrap firm, was stated to be suffering from a serious heart disease.

Cardiff Quarter Sessions—April, 1955. Wilfully neglecting a 12 months' old son. Twelve months' imprisonment. Defendant, a woman of 33. The child was found lying at the foot of a staircase, dead, and a post mortem examination disclosed seven broken ribs, a torn lung and 26 bruises on the body. Death had resulted from haemorrhage caused by rupture of the liver. Defendant denied knowledge of the broken ribs and attributed the bruises to the child's frequent falls while learning to walk.

Bingley—April, 1955. Causing unnecessary suffering to a dog. Fined £5. The dog ran into defendant's house and stood growling at him when he tried to turn it out. He thereupon shot it with a six millimetre shot gun and the dog was later found to have nine wounds in the shoulder caused by pellets from the gun.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review

DEAR SIR,

I am rather surprised that Mr. Clifford has made no mention of the effect of the Children Act in his article on "Recession in Juvenile Crime" (March 12). The work of the children's committees and the appointment of several hundred child-care officers throughout the country has undoubtedly had a very important influence on less stable families from whom the majority of juveniles appearing before the courts are drawn. These men and women cover a far wider field than boarding-out children in foster homes. The case work which they undertake with all families whose children come within the purview of children's committees enables many problems to be dealt with at an early stage and before things become acute enough to require the removal of the child or young person from his own home, either by placing him in the care of the local authority or by committing him to an approved school.

There is still much to be done but this growing band of child-care officers is doing much to improve the standard of family care and reduce juvenile delinquency.

Yours faithfully,
W. G. TREECE.

180 Derby Road,
Beeston, Nottingham.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

Further to the Practical Point in your issue of April 2 regarding the constitution of the bench when a justice is himself to be tried, I have in this city and county borough on such an occasion tried to arrange for the learned recorder and his honour the county court Judge to sit as justices and so avoid the defendant being tried by the colleagues he sits with normally. The recorder and the county court Judge and all former county court Judges are on the Commission of the Peace and while they do not sit as such there are about four such persons available to make a bench for special occasions.

Yours faithfully,
A. N. MURDOCH,
Clerk to the City Justices.

St. Mary's Hall,
Coventry.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

At p. 214 you suggest that there ought to be a public local inquiry before planning permission is given for any development on land left uncoloured on the map submitted to the Minister with a county development plan.

In practice this is surely impossible. In theory also there seems no justification for hearing the objections of all the neighbours whenever development is proposed on "white" land. At common law the rights of the owner of land to develop it are much more secure than are the rights of his neighbours to stop him developing it; any common law rights which the neighbours might have are unaffected by planning law.

The real flaw in the procedure is that when an alteration is proposed in the county development plan as submitted by a county planning authority there is no procedure for enabling local people to state their views to the Minister, nor is there any requirement for publicity beforehand. But this is not the point that you were making.

Yours faithfully,
J. H. C. PHELIPS,
Deputy Clerk of the County Council.

Shirehall, Worcester.

The Editor,
Justice of the Peace and
Local Government Review

DEAR SIR,

I liked your Note of the Week at p. 214 on "defects in town and country planning procedure"—but this need to safeguard the rights of property of the subject would not be met by a mere regulation of the ministerial procedure governing appeals. It would be necessary to require the local planning authority to give prior notice of every intended decision; or would your observations be met if such publicity were given only in cases where the decision would conflict with the provisions of the development plan?

I am afraid there is no real answer to this particular type of injustice; and after all the local planning authority are supposed to be representative of the interests of the people.

Perhaps, especially in view of the extremely low percentages of votes recorded at the recent county council elections, this is just another argument for the return of part III planning powers to the district councils in their own right!

Yours faithfully,
J. F. GARNER.

15 Salisbury Road,
Andover, Hants.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

"THE POLICEMAN AS ADVOCATE"

The learned writer of the article headed as above, 119 J.P.N. 195, and some of your readers, might be interested to know of the following enactment, which is s. 44 of the Police Ordinance (cap. 99 of the Laws of Gibraltar, Revised Edition, 1950):

"Where any member of the Force lays an information or makes a complaint against any person, any officer or non-commissioned officer of the Force may appear before the magistrate or justice who is trying or inquiring into the matter of the said information or complaint, and shall have the same privileges as to addressing the said magistrate or justice, and as to examining the witnesses adduced in the said matter, as the member of the Force who laid the information or made the complaint would have had."

"Force" means the Gibraltar Police Force.

In the preface to the above-cited edition of the *Laws of Gibraltar*, the learned editor says: "The Law of England as it existed on December 31, 1883, is the law of Gibraltar, subject to any local enactments and to any subsequent Imperial legislation expressly, or by necessary inference, extending to Gibraltar." He adds: "Local legislation has now, to a very large extent, made reference to earlier English statute law unnecessary."

Yours faithfully,
J. R. NORTON-AMOR,
Clerk to the Justices.

Magistrates' Court,
Gibraltar.

ELECTION MANIFESTO

"Democracy" says George Bernard Shaw "substitutes election by the incompetent many for appointment by the corrupt few." The incompetence of the many is most clearly evidenced, at a time like the present, by the tone of the advertising matter addressed to them, in the guise of election literature, and the collection of *clichés* contained in the speeches of opposing candidates. Most of these, in any event, cancel one another out, and the intelligent elector need concern himself only with the minute residue that is not common ground. If he is logical, as well as intelligent, he may well abstain from voting altogether. As a correspondent to *The Times* has pointed out, the paramountcy of the party-system creates a situation where the voter is limited to a choice between two or three candidates, with both or all of whom he finds himself in stark disagreement, none of whom will dare to uphold his personal views in the division lobby, except on subjects of fifth-rate importance. In other words the M.P. is tending to become a mere voting-counter; such is the terror that the crack of the party-whip inspires.

That being the situation, an observer from another planet might well ask why we should choose the members of our legislature and government on the sole basis of their ability to talk in public. Nobody would think of selecting, as his legal or medical adviser, his architect or surveyor, a man who is merely clever at making speeches; nor would a man be permitted to set up practice in any of these professions except after a long course of theoretical and practical training, topped with the hallmark of a qualifying examination. But anybody, apparently, is at liberty to set up as a politician and to stand for office as the prospective administrator of a government department. That he is woefully ignorant of history, geography, economics, sociology, municipal and international law, and that he has no closer acquaintance with administrative methods and practice than with Chinese metaphysics, will not deter him, as long as he is a good talker and can score points, from the platform, against any audience as docile as the congregation who sit and listen to a sermon. Both performances leave us profoundly unimpressed, and for the same reason—you can't answer back—not, at any rate, in any coherent form and manner.

However, this is the system, hallowed by tradition, under which we live our political lives, and we suppose it will continue until one day some strong-minded person realizes its imperfections, sweeps it away and substitutes something like Plato's *Republic*, with its government of Guardians, carefully nurtured, educated and trained from birth for their task, or Rousseau's *Contrat Social*, with its conception of government by consent of the governed, and its eulogy of the Noble Savage, superior, in his honest simplicity, to so-called Civilized Man.

Those who share these thoughts will regard themselves as fortunate that the newspaper-strike has given them nearly a month's respite from the dull preliminaries of this mock-battle—the synthetic excitement, the stock-phrases, the well-worn metaphors; the superfluity of destructive abuse, the lack of constructive argument; the fortuitously "lucky breaks" which must be trumpeted aloud, the unfortunate *gaffes* to which the soft pedal must be discreetly applied. We know them all in advance, and can take them for granted.

There is very much in evidence, at times like this, a spirit of compromise; but it is a compromise on principles. A logical mind, for example, is puzzled by the fact that it is contrary to ethical usage to raise revenue by means of a national lottery, but perfectly right and proper for the Post Office to aid and abet the gambling-craze and cash in heavily on the enormous receipts that flow therefrom. Nor is it easy to understand why hard-earned hundreds in our personal incomes should be heavily taxed while the winners of five-figure prizes in the Pools escape scot-free (tax being levied only on the companies' profits). There is no satisfactory reply to such questions—only the severely practical answer that any party that had the courage to make an onslaught on popularized gambling would be committing political suicide. On such ephemeral considerations do the fates of governments depend.

In the toleration of such inconsistencies our politicians have shown themselves, on many occasions, more astute than those of our more logical and reflective Gallic neighbours. Their electoral system, more truly representative than our own, yet suffers from the defect that enables its Parliament, without itself facing the risk of dissolution, to oust government after government with impunity. Nevertheless, despite its precarious majority, each government in turn persists in its set course of policy and legislation without regard to consequences. Nothing could more clearly demonstrate the difference between English and French politics than the contrast between the diplomatic and respectful treatment accorded in this country to the prevalent vice of gambling (which, in theory, we pretend to deplore), and the reckless assault made by the late government of M. Mendès-France upon the widespread drinking-habits which no Frenchman (outside the ranks of the *doctrinaires*) would be found to deprecate. A recent law, published in the *Journal Officiel*, requires café-owners not to employ women under 21, and to keep one shelf behind the bar for non-alcoholic drinks. No bar may be opened by any person under 21, nor by anyone who has been in prison for more than a year, nor in the neighbourhood of hospitals, schools, sports-grounds, prisons, barracks or cemeteries. Strict obedience would doubtless imply the abolition of drinking altogether: but can one imagine such prohibitions being effectively enforced? Most unkindest cut of all—soldiers in the French Army are to be given a compulsory ration of one-eighth of a litre of *milk*!

Viewed in this context, the fall of the late government, which evoked such resounding echoes in every part of the world, is seen to have resulted neither from the debates on the Paris Treaties, nor the colonial policy in North Africa, nor the waning influence of France in the Far East; but from something much nearer home. It is not surprising to read that the mayors of 250 towns and villages in the wine-growing Département of Herault have resigned in protest, and have even threatened to close the town-halls to prevent polling during the forthcoming local elections. *Vox populi, vox Dei.* A.L.P.

BOOKS AND PUBLICATIONS RECEIVED

Rule of Law. A Study by The Inns of Court Conservative and Unionist Society. London: Conservative Political Centre. Price 2*s.*

Shaw's Guide to Income Tax relating to Local Authorities. Frank Mellor. Cumulative Noter Up 1953-55. London: Shaw & Sons Ltd. Price 1*s.* 6*d.*

How to Reduce your Rates. John B. Llewellyn. Starsons (Publishers) Ltd., Alexandra Buildings, Risca, Mon. Price 9*d.*

Parliamentary Procedure in South Africa. (Third Edition.) Ralph Kilpin. Cape Town and Johannesburg: Juta & Company, Ltd. Price 42*s.* net.

The Keeping of Attorneys' Books. Jack Bobrov. Cape Town and Johannesburg: Juta & Company, Ltd. 21*s.* net.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1—Food and Drugs—*False trade description—Vinegar.*

A small village shopkeeper is charged under s. 3 (i) of the Foods and Drugs Act, 1938, with selling vinegar which was not of the substance of the food demanded, namely, vinegar.

Samples were taken in the usual way and the analyst's certificate states that the sample was of "an artificial product resembling vinegar."

The constituents of the sample showed, *inter alia*, a content of over four *per cent.* of acetic acid.

We have referred to *Webb* v. *Jackson Wyness Ltd.* [1948] 2 All E.R. 1054; 113 J.P. 38, and this would appear, as the acetic acid content in the sample was over four *per cent.*, to provide a defence.

We believe, however, that the manufacture and sale of vinegar was the subject of a more recent prosecution when the question was very thoroughly dealt with.

Could you confirm this and, if so, give us some general information on the case and, if possible, a reference thereto ?

TETER.

Answer.

A more recent decision dealing with the sale of a synthetic liquid under the name of vinegar was *Kat* v. *Diment* [1950] 2 All E.R. 657; 114 J.P. 472. This was a prosecution for a false trade description contrary to the Merchandise Marks Act, the description being "non-brewed vinegar." The liquid was said to be composed of water, caramel, and between four and six *per cent.* of acetic acid. The defendant was convicted and his appeal by Case Stated was dismissed.

2.—Highway—*Private footpath—Purchase of freehold by parish council.*

A parish council in this rural district have for many years made an annual payment to certain landowners, through their solicitors, for the use of a footpath which leads to and affords a short cut to a row of houses some distance from a main road. Now the parish council are negotiating with the solicitors for the purchase of the freehold of the footpath. Under s. 167 of the Local Government Act, 1933, a parish council may, for the purpose of any of their functions under this or any other public general Act, by agreement acquire, whether by way of purchase, lease, or exchange, any land whether situate within or without the parish. It seems doubtful to me, however, if parish councils can purchase land for the purpose of affording footpath access to the houses in question as it is not (so far as I am aware) a function which a parish council is empowered to undertake. Therefore, your views on the matter will be appreciated and if they have the requisite powers perhaps you will be good enough to refer to them. PIPPO.

Answer.

We agree that the provision of the path is not a function of the parish council and we do not know of power enabling the purchase.

3.—Husband and Wife—*Maintenance Orders (Facilities for Enforcement) Act—Order made in England registered in Australia—Husband pays in Australian pounds.*

On December 28, 1943, JG obtained a maintenance order against her husband, JEG, which order has twice been varied, for £1 per week. In 1952 JEG went to Australia and when the payments became irregular the wife requested that the order be registered there in order to enforce the payments. In accordance with the Maintenance Orders (Facilities for Enforcement) Act, 1920, the order was duly registered at the Children's Court, Parramatta, New South Wales, and it was ordered that the amounts due thereunder be paid to the officer-in-charge of police, Parramatta. In due course I was notified by the clerk of petty sessions of the registration of the order and payments have since been made through him.

In November last I requested the clerk at Parramatta to take proceedings for the enforcement of the arrears under the order and I sent him a certificate of such arrears. I have now been informed by the clerk that according to the police records the arrears are considerably less than the amount shown on my certificate and he adds that this difference is probably due to the fact that *when the order was "confirmed" in his court it was made payable in Australian currency.*

I have ascertained that the difference in the amounts of arrears is due to the different values of the English and Australian pound.

If the order is payable at the rate of £1 Australian per week, as the clerk contends, then this will have the effect of varying the order to the detriment of the wife and without such variation having been confirmed by the court which made the order.

I have seen para. 9 of Home Office letter dated June 15, 1925, where it states that "overseas" orders confirmed in this country should be made payable in sterling and I appreciate that where an order is registered in Australia it should be made payable in the currency of that country, but I contend that the amount ordered to be paid should be the equivalent to the amount payable in sterling.

I have been informed by a local bank that the rate of exchange is £1 Australian to 15*s.* 6*d.* sterling, so that if the contention of the clerk at Parramatta is correct this will result in a considerable reduction in the order.

The question and answer at 95 J.P.N. 142, which deals with the deduction of the cost of remittance, appears to have little bearing on this matter. TURNLO.

Answer.

This order was, we take it, made in England when both parties were in this country, and registered (not confirmed) in Australia when the husband went there. The English order was for payment of a certain amount in English money, and in our opinion the wife is entitled to that sum, however much that may differ from the same nominal amount in Australian money. If the man had been in India he would have had to obtain pounds for rupees, and we consider that the husband in Australia must obtain English pounds sufficient to satisfy the order and remit them. Reference may be made to a question and answer at 111 J.P.N. 79.

4.—Magistrates—*Practice and procedure—Witness warrant—Liability of witness to remain in custody after arrest.*

Some difficulty has arisen in enforcing the attendance of a witness to proceedings in a magistrates' court in the odd case where a witness refuses to obey a witness summons. The Magistrates' Courts Act, 1952, s. 77, lays down the procedure to be followed to obtain the attendance of a witness who will not attend voluntarily. If a warrant be issued against a witness, either in the first instance or upon his failure to attend in answer to a summons, then subs. (2) and (3) provide that the court may issue a warrant to arrest him and bring him before the court "at a time and place specified in the warrant." Section 93 provides that the warrant may be endorsed for bail.

Forms 107 and 108 of the Magistrates' Courts (Forms) Rules, 1952, are so worded that the witness is to be brought before the court either forthwith or on a specified day, as alternatives. If the warrant requires the witness to be brought before the court forthwith, the first difficulty arises in that there appears to be no provision in the Act for remanding a witness. The Act gives a power to remand in a number of sections, *viz.*, ss. 6 (1), 14 (4), 16 (2), 26 (1), 28 (2), and 47 (5), but not in s. 77. Where there is a power to remand, but not otherwise, s. 105 provides, *inter alia*, that the remand may be in custody or on bail, as therein provided.

On the other hand, it cannot be expected that the parties to the case shall be instantly available if the witness is brought before the court forthwith. In the event of a witness being so brought before the court forthwith, if the case is not ready to be continued, it seems that no action can be taken against the witness and presumably he must be released.

If, on the other hand, the warrant requires the witness to be brought before the court on a specified day it may well be that that day is some distance ahead, *e.g.*, the case may be part-heard and the magistrates forming the court may not be available for two or three weeks. In any event the date specified in the warrant must be sufficiently far ahead to allow time for it to be executed, for, if not executed by that date, that warrant must cease to be operative, and a fresh warrant will be necessary. In such a case the witness, if the warrant is executed promptly, as all warrants should be, must remain in custody until the specified day, however distant that may be, without ever appearing before a justice.

A person arrested on a warrant for an offence, on the other hand, is normally ordered by the warrant to be brought before the court forthwith. In his case no difficulty arises as he may be remanded either on bail or in custody pursuant to s. 105. If my argument is correct, a person arrested on a warrant under s. 77 may remain in custody—to the embarrassment of the police—for many days, whereas a person charged with an offence will, whether arrested with or without a warrant, normally be brought before a justice with very little delay.

I shall be glad to have your views on this matter. SEDMON.

Answer.

We recognize the difficulties mentioned by our correspondent, but we do not think they need arise in practice. Presumably a warrant forthwith would be issued only when it was known that the witness was available and could promptly be arrested and brought before the court, and that the court could then proceed to take his evidence. Otherwise the procedure would be to adjourn the hearing of the case to a stated day, and to issue a warrant for the witness to be brought before the court on that day. We think such a warrant is properly executed by the arrest of the witness at a time which will ensure that he is brought before the court on the stated day. On this basis, and with the endorsing of warrants for bail in suitable cases, we think it most unlikely that a witness will be detained in custody, as suggested, for many days.

5.—Street Names—*Affixing without owner's consent—Damage by third parties.*

We have been asked to advise whether the owner of property can successfully object to the proposal of the local authority to fix a street name plate on the fence of the property. In the actual case concerned the fence is being erected in replacement of an old fence upon which there was a name plate. This plate formed a target for boys and the client feels that if the plate is placed on his new fence it will result in damage and deterioration. We are not sure whether the council have adopted s. 19 of the Public Health Act, 1925, or whether the authority concerning street names is s. 64 of the Towns Improvement Clauses Act, 1847

Section 306 of the Public Health Act, 1875, imposes a penalty on any person who wilfully obstructs any member of the local authority or any person duly employed in the execution of that Act. It seems doubtful whether this would apply to a person who is objecting to interference with his own property by affixing a name plate thereto.

It is also of interest that s. 308 of the 1875 Act provides for the payment of compensation by a local authority to any person who sustains damage by reason of the exercise of powers under that Act.

We should value your view as to:

1. Whether the local authority can place a street name on our client's new fence without his consent and if so, the authority for their act.

2. Whether our client would be liable under s. 306 of the Act of 1875 if he took active steps to prevent such name plate being affixed without consent.

3. If the name plate is affixed and the fence is damaged as feared by our client would a claim exist under s. 308 of the Act of 1875. It seems to us that this section would only apply to damage caused by or due to faulty work by a representative of the local authority and not to damage caused by some extraneous circumstances, such as wilful damage by third parties, even though the object of the damage might be the name plate and it could, therefore, be said that the damage would not have been caused had the name plate not been affixed.

EMLEY.

Answer.

Neither s. 64 of the Act of 1847 nor s. 19 of the Act of 1925 was well drafted, but we think each section must be taken to mean that the council can insist on having the plate put on the fence, whatever the owner's wishes.

1 and 2. If we are right the consequence follows that s. 306 of the Act of 1875 is applicable.

3. We greatly fear that s. 308 of the Act of 1875 would not be available to give compensation for the wrongful acts of persons not under the control of the local authority.

6.—Sunday Entertainment—*Cinematograph licence—"Prescribed percentage" of takings—Application to vary condition—Whether to be made in open court.*

Cinemas in this division open on Sundays by permission granted under the Sunday Entertainments Act, 1932, subject to the conditions which my justices, as the licensing authority, have imposed, including a condition (under s. 1 (1) (*b*) of the Act) that a certain percentage of the takings shall be paid to me as clerk. The cinema trade now wish to make private representations to my justices that this payable percentage should be reduced, presumably on financial grounds.

It would appear to me that any variation of the conditions would be a purely administrative matter to be exercised by my justices "sitting in petty sessions" in accordance with s. 5 of the 1909 Act. The term "petty sessions" has no precise meaning and Ridley, J., in the case of *Huish* v. *Liverpool Justices* (1914) 78 J.P. 45, said that justices may act in petty sessions in relation to an administrative matter either in court or in private. I am informed that some justices sitting in petty sessions have heard such representations in private and others have heard them in open court. I shall be glad of your views on this aspect of the matter.

N. SILVER.

Answer.

In our opinion, and on the authority mentioned by our correspondent, justices would not be wrong in hearing in private such representations as it is desired to make to them.

7.—Town and Country Planning—*Access to land proposed to be developed.*

Your P.P. 10 at 118 J.P.N. 789, expresses the opinion, *inter alia*, that it would be proper to impose a condition on a planning consent requiring sufficient means of access to the satisfaction of the local planning authority to be provided in connexion with a proposal to develop land "(*a*) where the unmade road to which the proposed development will have a frontage is not in the ownership of the developer." It may be of interest to readers to hear of a case which occurred some time ago in this non-county borough in which the Minister, on appeal, stated a contrary view on a matter of similar principle.

The brief facts are as follows:

The borough council in granting planning consent for certain development imposed, as one condition, that (under certain circumstances not relevant to this point) "the developers shall arrange alternative road access to the depot to the satisfaction of the borough council."

In allowing the appeal against this condition the Minister stated "The reasons for the condition are fully appreciated and the matter has been carefully considered but it appears to the Minister to impose an obligation in certain circumstances to develop land which is neither the subject of the application nor under the control of the developers. The Minister is advised that such a condition cannot properly be imposed."

In the light of this decision I would be grateful for your valued further opinion as to whether, in the case dealt with in P.P. 10 and referred to in the first paragraph above, it would be preferable, from the planning authority's aspect, to refuse planning consent until the application was amended to show sufficient and satisfactory means of access to the proposed development, thus avoiding the necessity of imposing a condition which might later be held to be improper.

A. ONBIT.

Answer.

We think this could be done.

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T. C. HAYWARD,
Secretary of the West Sussex Probation Committee.

County Hall,
Chichester.
May 7, 1955.

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